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REPORT OF THE MONTANA
BOARD OF PARDONS



MONTANA STATE BOARD OF PARDONS AND PAROLE

STATISTICAL DATA 1997

MO	NO CASE	W	INTV FOR PARL	INTV GRNT PARL	* TOTAL PARLD	1ST OFFNS	** PAROLE VIOLATORS TV NC PR			RSC	ANNUAL REVIEW CNG/NC	RLS ON PARL	PARL COMP
Jan	152	54	79	28	35	16	4	1	3	3	14 24	28	20
Feb	153	53	81	49	58	26	11	0	7	3	11 26	22	18
Mar	137	28	51	30	36	15	12	1	9	4	9 31	44	19
Apr	187	55	90	54	60	39	15	2	12	1	14 30	28	6
May	144	40	63	32	43	24	7	0	5	3	13 24	40	20
Jun	158	54	77	45	54	30	14	0	10	1	15 26	45	10
Jul	161	60	57	34	49	21	11	0	6	5	17 21	39	17
Aug	156	77	80	48	60	34	5	0	5	1	17 26	32	11
Sep	159	44	78	41	55	29	9	0	4	7	14 19	33	23
Oct	157	82	75	43	50	33	10	1	6	0	14 19	43	7
Nov	170	61	93	59	66	38	6	0	4	3	12 27	44	6
Dec	146	74	75	47	51	25	8	1	6	4	8 23	46	20
1997	1880	682	899	510	617	330	112	6	77	35	158 296	444	177

* Reflects the total number of inmates granted parole, including annual reviews, revocations, discussion cases, and change of disposition.

* Does not include parole violators who are reinstated. Includes parole violators not returned to MSP.

NO CASE=Total number of cases W=Waived appearance INTV=Interviewed by the Board
 PARL=Parole GRNT=Granted PARLD=Paroled OFFNS=Offense TV=Technical violations NC=New
 felony conviction PR=Completed pre-release, included in total parole violators RSC=Parole rescinded
 CNG=Change in annual review status NC=No change annual review status RLS=Release PARL=Parole
 PARL COMP=All parole completions

MO	INTERVIEWED A D S V				PAROLED A D S V				TIME PARL	TIME INIT	PARL INIT	DFS	PARD Y N		COMM Y N		SVRL Y N	
Jan	65	49	5	32	27	17	1	12	36.5	24.9	19	1	0	1	0	0	0	0
Feb	61	54	4	30	43	33	3	21	28.3	23.4	40	0	0	0	0	1	0	0
Mar	42	39	5	19	28	28	2	11	29.9	25.4	24	0	0	0	0	1	0	0
Apr	76	58	6	29	51	33	3	16	23.6	22.3	45	0	0	0	0	0	0	0
May	51	41	9	28	34	27	5	27	37.8	23.2	19	1	0	0	0	0	0	0
Jun	67	49	9	30	47	32	2	14	39.4	24.2	28	1	0	0	0	0	0	0
Jul	50	43	7	20	40	34	3	16	43.6	20.8	22	0	0	0	0	0	0	0
Aug	68	57	3	29	48	41	1	13	28.0	20.0	38	0	0	2	0	0	0	0
Sep	57	49	4	25	38	39	2	13	25.5	19.2	25	1	0	0	0	2	0	0
Oct	54	44	8	25	36	31	4	12	29.9	20.4	29	0	0	1	0	0	0	0
Nov	70	55	3	30	55	39	1	16	26.4	19.4	44	1	0	0	0	0	0	0
Dec	59	43	4	33	39	25	0	15	35.8	27.2	32	0	0	1	0	0	0	0
1997	720	581	67	330	486	379	27	186	32.0	22.5	365	5	0	5	0	5	0	0

A=Alcohol problem D=Drug problem S=Sex offense V=Violent offense TIME=Months served PARL=Paroled
 INIT=First Board appearance DFS=Discharge from supervision PARD=Pardon Y=Granted N=Denied
 COMM=Commutation SVRL=Supervised release

Submitted,

BOARD OF PARDONS AND PAROLE

Patrick T. Fleming, Chairman
 Craig Thomas, Executive Director

Jeff A. Walter
 Administrative Officer

J. Hank Pfeifer
 C & T Specialist

JAW\wp\stats97

CC: Board Staff, Board Members, Warden, C&T, and DOC Statistics

1996

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BOARD OF PARDONS AND PAROLE GOALS, OBJECTIVES, AND DUTIES

MISSION STATEMENT

The Board of Pardons and Parole, as part of the criminal justice process, serves all Montana citizens by: 1) effecting the release into the community of an appropriate offender prior to the completion of a sentence while still fully protecting society, and 2) not releasing offenders who present a risk to the community. All employees and members of the Board of Pardons and Parole are committed to securing the effective application of and improvements to the clemency and release system as well as of the laws upon which they are based. The parole process is administered in an effective, humane, safe, and just manner.

STATUTORY AUTHORITY

<u>2-15-121, MCA:</u>	Defines the administrative attachment of the Board of Pardons and Parole.
<u>2-15-124, MCA:</u>	Define the requirements of quasi-judicial Board.
<u>2-15-Part 23, MCA:</u>	Establishes the Board of Pardons and Parole and defines the composition, allocation, and quasi-judicial status of the Board.
<u>46-18-Part 1, MCA:</u>	Establishes state correctional policy and preliminary procedures.
<u>46-23-Part 1, MCA:</u>	Establishes and defines the general provisions of the Board of Pardons and Parole.
<u>46-23-Part 2, MCA:</u>	Establishes the general provisions for granting parole and defines the authority and responsibilities of the Board of Pardons and Parole.
<u>46-23-Part 3, MCA:</u>	Establishes and defines the conditions, authorities, and responsibilities for clemency.
<u>46-23-Part 4, MCA:</u>	Defines Board of Pardons and Parole actions on supervised release applications and defines Board of Pardons and Parole actions on supervised release violations.
<u>46-23-Part 10, MCA:</u>	Establishes and defines the conditions, authority, and responsibilities for supervision and revocation.
5 FTE	Executive Director Administrative Officer Classification and Treatment Specialist Administrative Assistant Administrative Support

BOARD OF PARDONS AND PAROLE - 5.0 FTE

EXECUTIVE DIRECTOR (Craig Thomas)

- Directs the daily operation of the Board of Pardons and Parole
- Represents the Board in matters of policy, interdepartmental cooperation, and communications with political and judicial bodies
- Oversees all matters of personnel, budget, and distribution of work
- Acts as a hearing officer
- Prepares reports and makes release recommendations

ADMINISTRATIVE OFFICER (Jeff Walter)

- Assumes duties of Executive Director in his absence
- Interviews inmates for parole consideration, gathers and analyzes information, and makes specific recommendations to the Board on inmate release risk
- Acts as a hearing officer
- Prepares parole reports and makes release recommendations

CLASSIFICATION AND TREATMENT SPECIALIST (Hank Pfeifer)

- Responsible for the pre-parole program
- A member of pre-release and initial classification committees
- Acts as a hearing officer
- Prepares parole reports and makes release recommendations

ADMINISTRATIVE ASSISTANT (Cathy Leaver)

- Organizes the Parole Board hearing data
- Records Parole Board dispositions
- Processes reports regarding parole, executive clemency, and supervised release

ADMINISTRATIVE SUPPORT (Cathy Walston)

- Prepares placement investigations and release documents
- Prepares correspondence and reports
- Maintains Board confidential files and records dispositions
- Answers telephone
- Distributes and processes all mail

FUNDAMENTALS

The Montana State Board of Pardons and Parole is composed of three members and an auxiliary member. Each member is appointed by the Governor for staggered four year terms subject to confirmation by the State Senate. The Governor appoints the Chair in accordance with State law. The Vice-Chair and Secretary are elected in an executive session by the members.

The Board was created by legislative action in 1955. There has been some form of parole within Montana since 1889. In 1979, the addition of the auxiliary member was provided by the legislature.

The Board is part of the Executive Branch of State government. It is attached, for administrative purposes only, to the Department of Corrections. All functions of the Board are performed independently of that Department.

Definitions:

"Additional Good Time Credits" means good time days awarded by the Director of the Department and credited as time served on a sentence or term (eliminated by the 1995 Legislature effective February 1997).

"Board" means the Board of Pardons and Parole as authorized in 2-15-2302 and 46-23-104, MCA.

"Capital Offense" means an offense for which the District Court imposed the death penalty.

"Controlling Sentence" means the sentence(s) that, based on a District Court Judgment, requires the longest period of time served to parole eligibility.

"Dead Time" means the period of time from the date a parole violation warrant is issued to the date a violator is arrested on the warrant and the determination whether this time should be counted as time under the term. This also includes time served in another state for a crime committed on parole.

"Department" means the Department of Corrections as authorized in 2-15-230, MCA.

"Designed Capacity" means the maximum average daily inmate population of a correctional institution as established by legislative appropriation.

"Discharge" means the release from custody upon completion of a term. *Flat discharge* means release without a period of supervision to follow. *Discharge balance suspended* means release with a period of probation to follow.

"Good Time Allowance" means days awarded by the Department of Corrections which operate as a credit on the inmate's sentence.

"Hearing" means the personal appearance of an inmate before the Board for release consideration, Executive Clemency, or revocation.

"Inmate/Prisoner/Offender" means any person sentenced by a State District Court to a term of confinement in a State correctional institution or program.

"Maximum Time" means those sentences or terms that invoke the 17½ year parole eligibility rules (eliminated by the 1995 Legislature).

"Parole" means the release of an inmate into the community prior to the completion of a sentence subject to the orders of the Board and the supervision of the Department.

"Parole Certificate" means the document signed by the Board Chairman and Executive Director authorizing the release from confinement to parole.

"Parole Eligibility" means the earliest possible date a person may be released from confinement to parole supervision.

"Rescission" means an action of the Board that annuls or voids a prior release disposition.

"Review" means the annual/biennial informal administrative process of considering the conduct and progress of an inmate/prisoner to determine if reappearance or parole is desirable.

"Rules" means the conditions, limitations, and restrictions upon which parole is subject.

"Sentence" means the penalty imposed by a particular District Court for a specific felony offense.

"Sentence Commencement" means to begin service of a consecutive sentence which was imposed after reception and for crimes committed in prison or while on parole, furlough, or supervised release without the granting of parole.

"Term" means the total period of time for which an inmate was ordered to serve in a State correctional institution or program.

"Victim" means a person who suffers loss of property, bodily injury, or death as a result of: the commission of an offense; the good faith effort to prevent the commission of an offense; the good faith effort to apprehend a person reasonably suspected of committing an offense; the estate of the deceased or incapacitated victim or a member of the immediate family of a homicide victim; a governmental entity that suffers loss of property as a result of the commission of an offense in this state; or an insurer or surety with a right of subrogation to the extent it has reimbursed the victim of the offense for pecuniary loss. A victim does not include a person who is accountable for the crime arising from the same transaction.

CORRECTIONAL POLICY OF THE STATE OF MONTANA

MCA 46-18-101

- (1) It is the purpose of this section to declare the correctional policy of the State of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted are drawn to implement the policy established by this section.
- (2) **The correctional policy of the State of Montana is to protect society by preventing crime through punishment and rehabilitation of the convicted.** The legislature finds that an individual is responsible for and must be held accountable for the individual's actions, including, whenever possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be implemented to impress upon each individual the responsibility for obeying the law. To achieve this end, it is the policy of the State to assure that prosecution of criminal offenses occurs whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the State's policy that persons convicted of a crime shall be dealt with **in accordance with their individual characteristics, circumstances, needs, and potentialities.** Finally, it is the policy of the State to recognize that the interests of crime victims should be considered so that, to the extent possible, victims of crime may be protected from the threat of future harm by the offender.
- (3)
 - (a) Sentences imposed upon those convicted of crime must be based primarily upon the following:
 - (i) the crime committed;
 - (ii) the prospects of rehabilitation of the offender;
 - (iii) the circumstances under which the crime was committed;
 - (iv) the criminal history of the offender; and
 - (v) consideration of alternatives to imprisonment of the offender in the State prison or a women's correctional facility.
 - (b) Dangerous offenders who habitually violate the law and victimize the public shall be removed from society and correctively treated in custody for long terms as needed. Other offenders shall be dealt with by probation, suspended sentence, community corrections, community service, or fine, whenever such disposition appears practicable and not detrimental to the need of public safety and the welfare of the individual. Whenever possible, sentences for offenders shall include restitution to the victim and payment of costs of court-appointed counsel.
- (4) It is also the policy of the State that alternatives to imprisonment, such as community corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate in other activities that will reduce recidivism and enable offenders to become productive members of society.

PARAMOUNT OBJECTIVES OF THE BOARD

1. The primary objective of the Board is to carefully review each eligible prisoner nearing the end of a period of incarceration set by the court. Parole may be granted when, in the Board's opinion, there is a reasonable probability that the prisoner can be released without detriment to the inmate or community.
2. To make every feasible effort to bring about the rehabilitation of those inmates incarcerated or released and demand all prisoners demonstrate they are no longer a danger to society before seriously considering release.
3. To allow victims to present a statement concerning the effects of the crime on the victim or family; including, but not limited to, their opinion on release of an offender.
4. To set specific conditions which must be met prior to release.
5. To set specific and individual conditions for prisoners once on parole which must be agreed to prior to release.
6. To monitor offenders carefully through a network of professional parole officers and return promptly to custody releasees who are unable or unwilling to adjust to parole supervision, violate conditions of their release, and are endangering public safety.
7. To protect society by not releasing inmates and extending the time in prison for more violent and dangerous offenders.
8. To recommend to the governor pardons and commutation of sentences for those offenders meeting specific criteria.
9. To carefully review, approve or deny, and set the conditions of conditional discharges from supervision.

PAROLE: A FLEXIBLE SYSTEM OF PUNISHMENT

Parole pertains to **how** punishment is administered, not **how much** punishment is administered. A parole system mandates earned release, a system without parole means automatic release. The length of time in prison that an offender must spend before they can be reviewed by the Board can be short or long. The courts and legislature set the minimum and maximum amount of prison time to be served. The current sentencing structure is a flexible system for punishing offenders and protecting the public. There are typically three phases if an offender is sentenced to Montana State Prison:

1. The first phase requires an offender to serve 25% of the sentence entirely in custody. By setting a sentence considering parole eligibility established by law, the Judge can virtually always assure a period of incarceration that he or she feels is appropriate for the punishment of the offender and the safety of the community.

2. Only upon completion of phase one can an offender become eligible for parole. The second portion of the sentence can be served either in custody or in the community, depending upon the severity of the crime and risk presented by the offender. It is here that the Board can *significantly lengthen the time served for dangerous offenders*. The Board has the advantage of any new information, which may have come to light about the offender, study the prisoner's behavior in prison, and hear personally from victims and criminal justice authorities as they review the case. They also have the advantage of months and years of gathering information that truly assesses an offender's record and character.
3. A third phase of punishment may be served in the community under supervision and the requirements set by the Board. If an offender violates the conditions, the Board can quickly return the offender to custody to serve the remainder of the term.

HISTORY OF THE BOARD OF PARDONS AND PAROLE

Creation of the Board of Pardons (1889). The origins of the Board of Pardons and Parole can be traced to the 1889 Montana Constitution. Article VII, Section 9, of the constitution authorized the Governor to grant pardons, remit fines and forfeitures, and commute punishments subject to the approval of a Board of Pardons. The constitution directed the Legislature to provide for the appointment, composition, powers, and duties of the Board.

In 1891, the Legislature determined that the Board of Pardons would be composed of three elected state officials: the Secretary of State, Attorney General, and State Auditor (L. 1891, pp. 191-195). The duties assigned to the Board were limited to advising the Governor when he chose to exercise his constitutional power to grant an absolute or conditional pardon, remit a fine or forfeiture, or commute a punishment. If the Governor wished to take such action, the Board scheduled a hearing, solicited testimony during the hearing from parties supporting or opposing the Governor's action, and then recommended to the Governor whether a pardon should be granted, a fine or forfeiture remitted, or a punishment commuted. The 1891 Board had no parole responsibilities.

Parole by the Board of Prison Commissioners (1907). Sixteen years later, the Legislature provided for the parole of prisoners (Ch. 95, L. 1907). The 1907 legislation authorized the State Board of Prison Commissioners, consisting of the Governor, Secretary of State, and Attorney General, to parole an inmate of the Montana State Prison (MSP) subject to the following restrictions:

- (1) An inmate could not be paroled if the inmate previously had been convicted of a felony other than the one for which the inmate currently was imprisoned.
- (2) An inmate serving a time sentence could not be paroled until the inmate had served at least one-half of the inmate's full term, "not reckoning his good time,," except that an inmate serving a time sentence could be paroled after serving 12½ years.
- (3) An inmate serving a life sentence could not be paroled until the inmate had served 25 years, less the diminution which would have been allowed for good conduct had the inmate's sentence been for 25 years. Additionally, the parole had to receive unanimous approval from the Board of Pardons.

The law further provided that the parolee remained under the legal custody of the State Board of Prison Commissioners and could be returned to prison "either for breach of the conditions of parole or otherwise." A parolee was required to report in writing to the Board at least every three months.

Parole and Executive Clemency Functions Merged (1955). For the next 48 years, a dual board system existed. The Board of Pardons reviewed Executive Clemency matters, while the State Board of Prison Commissioners handled paroles. In 1955, however, the functions of the two boards were combined and assigned to a reconstituted Board of Pardons (Ch. 153, L. 1955). The Board consisted of three members appointed by the Governor with the advice and consent of the Senate. Members served staggered six-year terms.

In addition to administering the laws governing parole and Executive Clemency, the Board was charged with supervising probation sentencees. The 1955 legislation authorized the Board to appoint a State Director of Probation and Parole. The director, in turn, was authorized to appoint an assistant director and other necessary employees. All officers and employees served at the Board's pleasure.

The 1955 legislation, in addition to reconstituting the Board and defining its functions, revised the provisions concerning parole eligibility. The law required the Board to release on parole any inmate, except a person under a death sentence, when in the Board's opinion, "there (was) reasonable probability that the prisoner (could) be released without detriment to him/herself or to the community, subject to the following restrictions:

- (1) No inmate serving a time sentence could be paroled until the inmate had served at least one-quarter of the inmate's full term, less good time; however, any inmate serving a time sentence may be paroled after serving 12½ years.
- (2) No inmate serving a life sentence could be paroled until the inmate had served 25 years, less good time.

No changes were made to the 1955 law for the next 16 years. Then, in the 1970's, 80's, and 90's, a series of revisions was enacted.

Board Transferred to Department of Institutions (1971). Under the 1971 Executive Reorganization Act, the Board of Pardons was transferred to the Department of Institutions (now called the Department of Corrections) for administrative purposes only. In addition, the position of State Director of Probation and Parole was renamed the Administrator of Probation and Parole (Ch. 272, L. 1971).

Qualifications for Board Members/Probation and Parole Functions Placed in Department (1975). In 1975, the Legislature established statutory qualifications for members of the Board of Pardons (Ch. 333, L. 1975). Additionally, the Legislature abolished the position of Administrator of Probation and Parole and transferred responsibility for probation and parole field services from the Board to the Department of Institutions.

Persistent Felony Offender Designation Created (1975). Also, in 1975, the Legislature required sentencing courts to designate certain individuals as persistent felony offenders for parole eligibility purposes. To be designated as a persistent felony offender, the following conditions must have existed at the time of sentencing:

- (1) the offender had been previously convicted of a felony and the present offense was a second felony committed on a different occasion than the first;
- (2) the previous felony conviction was for an offense for which a sentence to a term of imprisonment in excess of one year could have been imposed;
- (3) less than five years had elapsed between the commission of the present offense and the offender's release on parole or otherwise from prison; and
- (4) the offender was more than 18 years old when the offender committed the present offense.

The 1975 law provided that a persistent felony offender could not be paroled until the offender served at least one-third of the offender's full term, less good time, or until the offender had served 17½ years, whichever occurred first. (An inmate not designated as a persistent felony offender was parole-eligible after serving one-quarter of the inmate's term, less good time, or after serving 12½ years, whichever occurred first). The law also increased the amount of time that an inmate with a life sentence must serve before becoming eligible for parole from 25 years to 30 years.

Non-dangerous Offender Designation Created (1977). Two years after enactment, the 1977 Legislature repealed the persistent felony offender law and created a new designation called "non-dangerous offenders" for parole eligibility purposes (Ch. 340, L. 1977). (The criteria for designating an offender as non-dangerous are discussed in Section III). The 1977 law provided that a person designated as a non-dangerous offender could be paroled after serving one-quarter of the offender's full term, less good time; a person without this designation was parole-eligible after completing one-half of the offender's term, less good time. The law also provided that if a prisoner was sentenced for an offense committed while incarcerated at the state prison or while released on parole or under the prisoner furlough program, the new sentence would run consecutively with the remainder of the original sentence.

Ineligible-for-Parole Restriction Authorized (1977). Also in 1977, the Legislature permitted district judges to sentence felony offenders to imprisonment with no possibility of parole or participation in the prisoner furlough program (Ch. 580, L. 1977). This restriction could be imposed if the judge sentenced a felon to imprisonment in the state prison for a term exceeding one year. A judge imposing the restriction was required to state in writing his reason for doing so.

Auxiliary Board Member Added (1979). An auxiliary member was added to the Board of Pardons and Parole in 1979 (Ch. 574, L. 1979). This member attends meetings that a regular Board member could not attend. At these meetings, the auxiliary member has all the rights and responsibilities of a regular Board member.

Change in Montana Code Annotated Section 46-23-201 (1983). The 1983 Legislature provided for early parole making inmates eligible for release 120 days prior to parole eligibility if the prison exceeded designed capacity (eliminated by the 1995 Legislature).

Change in Montana Code Annotated Section 46-23-201 (1989). The 1989 Legislature amended the parole statute and changed the word "shall" to "may.. This was effective on March 20, 1989. It is significant in that all crimes committed after this date fall under the new statute and eliminated "liberty interest" in parole (Board of Pardons vs. Allen).

Change in Montana Code Annotated Section 53-30-105 (1993). The 1993 Legislature amended the good time allowance statute. This was effective July 1, 1993. It provides for the awarding of additional good time credits to allow an inmate to become parole eligible. It also provides 180 days of additional good time credits to allow an inmate to discharge. The awarding of additional good time credits does not change the Parole Board's rules or regulations. This statute is also controlled by the Department of Corrections' Administrative Rules. Also, provided for commitments to the Department of Corrections for appropriate placement.

Change in Montana Code Annotated (1995).

- (A). The 1995 Legislature eliminated good time for the purposes of parole eligibility effective April 13, 1995, and entirely effective February 1, 1997. **Unless the court otherwise orders, all inmates will serve 25% of their sentence prior to becoming parole eligible and will serve 100% of their sentence to discharge.** The Legislature also eliminated the provision that requires parole appearance on a time sentence after 17½ years and required 30 years to be served on a life sentence. Additionally, the 1995 Legislature eliminated the 120-day, early consideration and non-dangerous/dangerous designation. This applies to crimes committed on or after April 13, 1995. (See Table 3).
- (B). The Board of Pardons was renamed the Board of Pardons and Parole because the majority of the Board's functions directly pertain to parole issues. (See Figure 1).

CURRENT PAROLE BOARD MEMBERS

<u>Name</u>	<u>Occupation</u>	<u>Date Originally Appointed</u>	<u>Date Term Expires</u>
John G. Thomas, Chair	Retired	9/27/91	1/2/97
Patrick T. Fleming, Vice Chair	Attorney	1/2/93	1/1/99
*Julene P. Kennerly	Social Worker/Educator	1/2/93	1/2/97
Mary Jo Fox (Auxiliary member)	Journalism/Political Science	1/1/95	1/2/97

* Member with knowledge of Native American issues.

Parole Board members serve staggered terms. The Governor appoints one member and the auxiliary member in January of the first year of the term. A third member is appointed in January of the second year of the Governor's term. The remaining member is appointed in January of the third year.

MCA 2-15-2301, Board of Pardons and Parole-composition-allocation-quasi-judicial.

- (1) There is a Board of Pardons and Parole.
- (2) The Board consists of three members and an auxiliary member, at least one of whom shall have particular knowledge of Indian culture and problems. Members of the Board, including the auxiliary member, shall possess academic training which has qualified them for professional practice in a field such as criminology, education, psychiatry, psychology, law, social work, sociology, or guidance and counseling. Related work experience in the areas listed can be substituted for these educational requirements.
- (3) The auxiliary member shall attend any meeting that a regular Board member is unable to attend and, at that time, has all the rights and responsibilities of a regular Board member.
- (4) The Board is allocated to the Department for administrative purposes only as prescribed in 2-15-121. However, the Board may hire its own personnel and 2-15-121(2)(d) does not apply.
- (5) The Board is a quasi-judicial body and is entitled to *absolute immunity* for acts performed within their official capacity.
- (6) Board members are compensated at the rate of \$50.00 per day for each day they are engaged in Board business. Their expenses are also reimbursed.

LEGAL AUTHORITY OF BOARD OF PARDONS AND PAROLE

LEGAL ADVISOR:

46-23-105 MCA, 1991:

The Board may appoint any qualified attorney or the Attorney General to act as its legal advisor and represent it at all proceedings whenever so requested by the Board.

INFORMATION FROM COURTS TO BOARD:

46-23-106 MCA, 1991:

It shall be the duty of the court disposing of any criminal case to cause to be transmitted to the Board of Pardons and Parole statistical data in accordance with regulations issued by the Board regarding all dispositions of defendants whether found guilty or discharged.

ORDERS OF THE BOARD-REVIEWABILITY AND MAJORITY VOTE:

46-23-107 MCA, 1991:

Decisions of the Board must be by majority vote. The orders of the Board are not reviewable.

SUBPOENAS-ISSUANCE, SERVICE, ENFORCEMENT AND PENALTY:

46-23-205 through 207:

The Board has the power to issue subpoenas compelling the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas may be signed and oaths administered by the Board or any member thereof. The Board may also make application for enforcement of the subpoena to any court in cases of contempt or refusal of any person to obey a subpoena issued. Violations may result in fines or imprisonment for failure to attend, and/or testify to answer a lawful inquiry or to produce records, books, papers, and other documents.

AUTHORITY OF BOARD TO ADOPT RULES:

46-23-218 MCA, 1991:

The Board may adopt any other rules it considers proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole hearings, and conditions to be imposed upon parolees.

CONDITIONS OF PAROLE:

46-23-215 MCA, 1991:

A prisoner, while on parole, remains in the legal custody of the institution from which the prisoner was released but is subject to the orders of the Board.

When an order for parole is issued, it must recite the conditions of parole. If restitution was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay restitution to the victim. An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition. (See Appendix for example of rules).

PAROLE IS NOT PROBATION:

Probation is the suspension or deferral of a prison or Department commitment by the District Court. The District Court retains jurisdiction and the offender is placed under community supervision subject to the conditions imposed by the court.

CONFIDENTIALITY OF RECORDS:

46-23-108 MCA, 1991:

The Department of Corrections and the Board of Pardons and Parole keep records of the Board's acts and decisions available to the public. However, information collected by the Board and the Department, such as pre-sentence reports, pre-parole reports, and supervision history, is considered confidential criminal justice information. The Board or court may permit inspection of the record if the Board determines it would be in the best interest of society.

ADMINISTRATIVE ATTACHMENT:

The Montana Legislature allocated the Board of Pardons and Parole to the Department of Corrections for administrative purposes only following the 1971 Executive Reorganization Act. However, the Board is autonomous, hires its own personnel, and sets its own policy independent of the Department of Corrections and without approval or control of the Department of Corrections. The Parole Board is not responsible for the care and custody of inmates nor is it in charge of supervising parole and probation officers. *Why is a separate and independent paroling authority a significant factor?* 1). The distribution of power within a correctional system must be distributed in a manner that will reduce the potential for misuse of power, a flexible system of punishment and checks and balances. 2). A citizen Board with members who have no vested interests can review offenders based on community safety and are not unduly influenced by the pressures of system management. 3). When corrections personnel do their job as they should, they become deeply involved in the lives of the inmates under their jurisdiction. Consequently, the tendency is to be influenced, either positively or negatively, by factors in the inmates present; factors such as institutional behavior and current progress. Board members focus on many factors in addition to institutional adjustment, especially factors with predictive significance such as criminal history, nature and severity of the offense, and prior community adjustment. 4). When the question of whether a parolee's behavior has deteriorated to the point where revocation is necessary, this decision must be subject to review by a body not involved

in day-by-day supervision and system management. In effect, the Board becomes a body which, among other responsibilities, is required to review the "products" of correctional programs.

The separate and distinct roles of the corrections personnel and the parole board inevitably mean there will be periodic tension between the two agencies. However, this is one of the results of the checks and balance system, the ultimate purpose of which is the protection of citizens and inmates.

PAROLE PROCESS

PAROLE ELIGIBILITY:

The minimum (initial parole eligibility) and maximum (sentence expiration) sentence lengths are set by the legislature and the district court. An inmate meeting the qualifications must be considered for parole. Parole is an earned privilege and may be granted only in the best interest of society and when the Board feels the offender is willing and capable of being a law-abiding citizen. Parole is not a reduction of a sentence or an award of clemency.

The Board staff administers a pre-parole program which centers on Board staff participating in the initial classification of inmates. The Board staff personally advises the new inmates of the types of prison programs, treatment accomplishments, and behavior or conduct expected that may enhance the offender's possibility of success on parole.

PROCESS:

All calculations for parole eligibility are done by the Department of Corrections' Records Department. Each month, an initial parole eligibility list is sent to the Board and these offenders, along with any reconsiderations set by the Board, are scheduled for a public hearing. Cases are usually reviewed 60 days prior to initial eligibility. The inmate is notified in writing regarding the date of the hearing. The inmate then will develop a parole plan to be presented to the Board. Board staff will conduct a pre-parole school approximately 30 days in advance of their scheduled Board meeting to assist and facilitate the completion of this release plan. The offender will appear before the Board members, at which time oral testimony is taken from all interested parties and the members review the offender's records. In most cases, a written disposition is rendered immediately following the hearing. (Please see Appendix for examples of case dispositions).

All interviews and hearings before the Board are conducted informally under the direction of the Chair or a designate. An inmate who is not interested in parole release may waive the right to personally appear before the Board. The inmate will acknowledge the fact the Board will render a decision based on the written record and on the fact the inmate is not interested in parole. Interested persons may appear before the Board but must notify the Board at least three days prior to the hearing. The Board has discretion in determining the number of persons who can attend the hearing and the Board generally excludes minors. To protect individual privacy rights, the Board may close a meeting to discuss confidential information.

CALCULATIONS (for crimes committed prior to April 13, 1995):

An inmate serving a sentence and designated a non-dangerous offender by the court is eligible for parole after serving 1/4 of the full term, less good time.

An inmate serving a sentence and designated a dangerous offender by the sentencing court must serve ½ the inmate's full term, less good time (approximately 25% of the term).

Inmates serving life sentences for crimes committed prior to April 13, 1995, must be considered for parole after serving 30 years, less good time.

For crimes committed on or after April 13, 1995, the offender must serve a minimum of 25% of the sentence to become parole eligible.

Time Sentences:

An offender serving a time sentence for crimes committed **prior to April 13, 1995**, must not serve more than seventeen and one-half (17½) years to parole eligibility on one sentence, unless the court orders otherwise. The 17½ year rule applies to only one sentence and not an aggregate of sentences. (See Table 3 for eligibility comparisons).

An inmate designated ineligible for parole by a State District Court until certain restrictions or conditions are met will not appear for a hearing until ineligibility conditions or restrictions have been satisfied. Upon completion of the restrictions or conditions, certified by the appropriate Department staff, the inmate may request an appearance before the Board and will be added to the next available Board for parole consideration.

MEDICAL PAROLE:

- (1) The Board may release a person on medical parole except a person under sentence of death at anytime eligibility requirements are met. To be eligible for a medical parole, a person must have an examination and written diagnosis by a physician licensed under Title 37 to practice medicine. The diagnosis must include a determination that the person suffers from an incapacitating physical condition, disease, or syndrome that renders the person highly unlikely to present a clear and present danger to public safety; a description of the physical condition, disease, or syndrome; and a detailed description of the person's physical incapacity and prognosis addressing the likelihood of the person's recovery from the physical condition, disease, or syndrome and the extent of any potential recovery. The diagnosis must be reviewed and accepted by the Department of Corrections before the Board may consider granting a medical parole.
- (2) The Board requires as a condition of medical parole that the person agrees to placement in an environment chosen by the Department during the parole period, including but not limited to a hospital, nursing home, or family home. The Board may require as a condition of parole that the person agree to periodic examinations and diagnosis at the person's expense. Reports of each examination and diagnosis must be submitted to the Board and Department by the examining physician. If either the Board or the Department determines that the person's

physical capacity has improved to the extent that the person is likely to pose a possible detriment to society, the Board will revoke the medical parole and return the person to the custody of the Department.

- (3) Medical parole may be requested by the Board, the Department, an incarcerated person, or an incarcerated person's parent, grandparent, child, or sibling by submitting the request in writing to the administrator of the correctional institution in which the person is incarcerated.

NOTIFICATION AND COMMUNITY RESPONSE:

The Board provides written notification of parole consideration to the sentencing judge(s), prosecuting attorneys, law enforcement officials from the county of commitment, probation and parole authorities, and victims of an offender. Comments and testimony regarding the possible release of the offender are actively solicited by the Board. (See Appendix for example of Notice).

ALTERNATIVES TO PRISON PLACEMENT:

The Swan River Correctional Training Center, pre-release centers, and other appropriate correctional programs across the State are extensions of Montana State Prison. Offenders in residence at these facilities continue to be classified as inmates. Generally, for parole purposes, court ordered programs and Board directed programs obtained in these facilities are acceptable to the Board.

PRE-PAROLE INVESTIGATION:

Before the Board interviews an inmate for parole consideration, it requests detailed reports and recommendations from prison counselors, Board staff, and, if a case warrants, from professional staff, such as psychologists. Sources of information include arrest and court records, pre-sentence investigations, and existing psychological evaluations and reports from any treatment programs an inmate may have attended. Also considered are institutional work and conduct records, rehabilitative efforts, and community response. This information is considered confidential Criminal Justice information.

PAROLE PLAN:

A comprehensive parole plan must be prepared by each inmate for Board consideration. Each plan will include a suitable living situation, gainful employment, or training or a school program guaranteed by a responsible and reputable person, firm, or institution. All release plans will be approved by the local Adult Probation and Parole staff prior to an offender being released on parole.

To appear for an interview before the Board or prior to release on parole, an inmate should have a minimum of 120 days of disciplinary-free status. If the inmate resides in a community-based facility, 90 days will be required. If parole has been granted, the Board may delay release up to 120 days from the date of each major disciplinary report, if it is determined rescission is not in order.

FACTORS IN PAROLE DECISIONS: (criteria)

The Board has identified certain factors as significant when considering an offender for parole. They will determine in their opinion:

1. The inmate can be released without being a detriment to him/herself or community.
2. The best interests of society are furthered.
3. The inmate is able and willing to fulfill the obligations of a law-abiding citizen.
4. Continued correctional treatment would substantially enhance the inmate's capacity to lead a law-abiding life.

The Board will not parole an inmate if there is a substantial reason to believe the inmate will engage in further criminal conduct or will not conform to specific conditions of parole.

CONSIDER THESE:

HISTORY

1. Education, training, occupational skills, and employment history.
2. Past use of narcotics or habitual excessive use of alcohol.
3. Circumstances of the offense for which the inmate is serving a sentence.
4. Criminal records, including nature of crimes, recency, and frequency.
5. Behavior and attitude while previously supervised on probation or parole.

PRISON RECORD

1. Attitude toward law and authority.
2. Institutional conduct, including disciplinary reports.
3. Work evaluations and work history.
4. Utilization of treatment opportunities.
5. Utilization of vocational and educational opportunities.
6. Maturity, stability, and behaviors consistent with the general population.
7. Noticeable attitude changes since incarceration.
8. Mental or physical makeup, for instance, physical and emotional status.

FORWARD VIEW

1. Family status, including whether the offender's relatives or other close associates in the community display an interest.

2. Residence, neighborhood, or community of planned residence.
3. Adequacy of parole plans.
4. Availability of community resources and their value to the inmate.

The Board is currently considering developing an empirically validated risk assessment tool which incorporates these factors.

WAIVER:

An inmate may voluntarily waive a parole hearing by notifying the Board in writing. However, a mandatory hearing will be scheduled within six months. Any inmate who has waived the Parole Board hearing may see the Board earlier by giving at least 30 days written notice. Additional waivers may be approved under certain circumstances, but must be approved by the Board.

NOTIFICATION OF DECISION:

All decisions issued from the Board are in writing and must be signed by at least two Board members. When an inmate has been denied parole, written notification will include the date of any future Board consideration. The disposition will include any special conditions or terms to be required by those granted parole. (See Appendix for example of dispositions).

RESCISSION AND RELEASE DELAY:

Parole may be withdrawn prior to release as a result of improper conduct or new evidence and information which were not available for the hearing at which parole was granted. The Board may delay parole release as a result of improper conduct or new evidence and information if rescission is not in order.

PAROLE SUPERVISION:

When the inmate has met the requirements of the law regarding parole, the Board may issue an order of release granting the offender permission to serve the remainder of the term outside prison, under such terms and conditions as the Board may impose. No inmate is granted a release from prison until the supervising community agent has examined and approved the inmate's proposed plan.

An inmate's parole is subject to all rules and conditions set by the Board and violations thereof subject the parolee to revocation and return to custody to serve the remainder of the sentence. Rules and conditions are stated in writing and are part of an agreement signed by the parolee. Parolees are also required to pay a monthly supervision fee of ten dollars. (See Appendix for an example of parole rules).

10 DAY FURLOUGH:

Upon receiving a parole from the Board, an inmate may request from the prison warden a 10-day furlough to the community of his/her intended residence. The purpose of a furlough is to enable the offender to obtain employment and/or a living situation.

CONDITIONAL DISCHARGE FROM SUPERVISION:

Should a parole officer recommend and the Board determine it is in the best interest of the parolee and society, the Board may grant a Conditional Discharge. Parolees are required to report to Probation and Parole by mail once per year. However, parole may be revoked if the parolee violates any condition the Board imposes. The parolee may then be returned to active supervision or custody to serve the remainder of the sentence.

A parolee convicted of a violent offense may be recommended for conditional discharge after a minimum time served on parole of four consecutive years with satisfactory adjustment or three consecutive years with exemplary adjustment. A parolee convicted of a nonviolent offense can be recommended for conditional discharge after three consecutive years satisfactory adjustment and two consecutive years exemplary adjustment. (See Appendix for an example of CDFS).

FINAL DISCHARGE:

When a person is released on parole, the projected date of discharge from parole supervision will be stated on the parole certificate. If all sentences have been completed, the person will receive written notice of discharge signed by the Governor and the Board of Pardons and Parole (no certificate is issued if a probation term follows). With the exception of jury duty, upon termination of State supervision, the person is restored civil rights and full citizenship. (See Appendix for examples of Final Discharge and Parole Certificate)

PAROLE REVOCATION

REVOCATION ARREST:

When a parolee has allegedly violated a condition of his release, a warrant may be issued for the parolee's arrest.

ON-SITE HEARING:

In most circumstances, an arrested parolee is afforded a preliminary hearing within a reasonable time at or near the place of the alleged violation. This hearing is conducted by the parolee's supervising officer and a hearing officer. The independent hearing officer need not be a judicial officer. The purpose of the hearing is to determine whether there is probable cause to believe the parolee violated one or more parole conditions or whether the offender should be held in custody pending the Board's decision on revocation. If probable cause is found, the Board will schedule a formal revocation hearing at the next regularly scheduled Board meeting following the offender's return to Montana State Prison. The parolee may waive the right to an on-site hearing but by doing so, the offender admits to the violations as outlined in the report of violation.

FINAL HEARING:

A parolee may request a continuance of a formal revocation hearing for substantial reason. The parolee may be represented by counsel and have witnesses with testimony relating only to the charges

of violation. The purpose of the full hearing is to make final decision on whether there is a violation of parole conditions and whether the violation warrants a return to custody and for how long. If a parolee admits to the violation, the parolee can waive the right to a hearing before the Board. The Board will make a final decision based on the record.

Revocation hearings are recorded. Following the decision, a written copy of the decision is given to the parolee. The Board decision is based on the reports of the supervising officer, the report of the on-site hearing, (if there was one), and information and evidence presented at the hearing. The burden of proof is a preponderance of the evidence.

Any parolee who commits a crime while on parole or conditional release and who is convicted and sentenced, serves the sentence consecutively with the remainder of the original term unless the court otherwise orders.

The Board will determine if dead time applies and how much is to be applied in individual cases. Dead time is that portion of time spent on parole (the time from the issuing of the parole violation warrant until the offenders' return to custody) that is not to be counted toward time served on the original sentence.

EXECUTIVE CLEMENCY

There are three major kinds of Executive Clemency in Montana:

- (1) ***Pardon*** - a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction.
- (2) ***Commutation*** - involves the mitigation of a criminal punishment through the substitution of a lesser sentence for a greater one.
- (3) ***Remission of Fines and Forfeitures***

The legal effect of a commutation is quite different from that of a pardon. Commutation involves the mitigation of criminal punishment through substitution of a lesser sentence for a greater one.

The substitution of a lesser sentence for a greater one occurs in four principal contexts:

- (1) to make immediately eligible for parole those prisoners not yet eligible under the terms of their sentences;
- (2) to make eligible for parole those who were excluded from eligibility for parole under their original sentences;
- (3) to end lengthy parole, when the individual appears able to live without further supervision; and
- (4) to avoid the death penalty, by the substitution of life imprisonment.

Commutation may be granted conditionally; it is usually said that any conditions may be imposed that are legal, moral, and possible to perform. If the conditions are valid, a noncompliance may lead to the revocation of the commutation.

The members of the Board of Pardons and Parole are responsible for recommending Executive Clemency to the Governor and consider commutation of a sentence and pardon *extraordinary* remedies. A recommendation for Executive Clemency will be made only when an applicant is able to clearly demonstrate that exceptional and compelling circumstances of equity and justice exist.

The applicant has the burden of demonstrating by clear and convincing evidence that:

- (1) based on evidence discovered subsequently to trial, the person's innocence is proven;
- (2) mitigating or extenuating circumstances not considered at trial attended the offender's or applicant's commission of the crime;
- (3) the offender or applicant is suffering from a terminal illness or a severe and chronic disability which would be mitigated by release from prison;
- (4) the offender or applicant has made exceptional strides in self-development and improvement; or
- (5) further incarceration would constitute gross unfairness.
- (6) the offender or applicant can satisfactorily prove extraordinary mitigating or extenuating circumstances exist.

In weighing the evidence of exceptional and compelling circumstances presented by the applicant, clemency officials will investigate:

- (1) The nature of the crime, the attitude of the judge and the prosecuting attorney, the attitude of the community toward the applicant, the attitude of the victim and victim's family, and a consideration of whether release would pose a threat to the public safety. The public safety determination overrides even the most substantial showing of exceptional or compelling circumstances.
- (2) Relevant institutional, social, psychological, and psychiatric records of the applicant.
- (3) All parties who have entered a plea of guilty or who have been found guilty by a jury are to be deemed guilty. However, the Board may initiate an investigation into a case where there is offered substantial evidence showing innocence or complete justification on the part of the person convicted.

APPLICATION:

Applications must be in writing, signed by the applicant, and filed with the Executive Director of the Board of Pardons and Parole. Applications may be filed **only** by the person convicted of the crime,

by the inmate's attorney acting on the person's behalf and with consent, or by a court-appointed next friend, guardian, or conservator acting on the prisoner's behalf. Unless the Board orders otherwise or there has been a substantial change in circumstances, as determined by the Board, a person may not reapply for Executive Clemency for a period of 36 months.

INVESTIGATIONS:

- (1) Generally, thirty (30) days will be required for the Department of Corrections to complete an investigation regarding the applicant's social history and criminal activity. The Board may require other reports that, in the Board's opinion, are necessary. When all necessary material is received and filed with the Executive Director, the application will be considered by the Board at its next meeting following the receipt of such investigation. If, in the opinion of the Board, sufficient cause appears to order a public hearing, the date of the hearing will be set and notice given to all concerned.
- (2) In non-capital cases, if, in the opinion of the Board, insufficient cause appears to necessitate a hearing, the application for Executive Clemency will be denied and notice given to all concerned.
- (3) In capital cases, a hearing will be conducted and the Board will transmit the application and either a recommendation that clemency be granted or a recommendation that clemency be denied to the Governor.

HEARING PROCEDURE:

Procedure for the hearing on an accepted application for Executive Clemency will be determined by the Board.

DECISION:

- (1) When the Board determines that sufficient cause appears, a public hearing will be conducted. The Board will hear all pertinent facts and information of the petitioner, the petitioner's counsel and witnesses, as well as any opponents to the petition, with a recording made thereof. Upon conclusion of the hearing, the Board will take the entire case under advisement and will forward a decision of recommendation to the Governor for final determination. Should the Board vote to deny the application, it will not be forwarded to the Governor.
- (2) In capital cases, the Board will forward a decision of recommendation or denial to the Governor for final determination.

SUPERVISED RELEASE/FURLOUGH POLICY

APPLICATION:

A prisoner may make application for supervised release/furlough by submitting a request in writing to the administrator or designate of the correctional institution in which the person is incarcerated.

- (1) Supervised release and furlough are extraordinary privileges that require exemplary adjustment and progress within the correctional system by the applicant and compelling circumstances must be present.
- (2) When the Board considers the supervised release/furlough application of an inmate who has been deemed eligible, it will order release only when, in the Board's opinion, the criteria for parole grant decision is satisfied.

INVESTIGATIONS:

Thirty (30) days will ordinarily be required for an investigation by the parole and probation staff of the Department of Corrections. The Board may require other reports that, in the Board's opinion, are necessary. When all necessary information is received and filed with the Executive Director, the application will be considered by the Board, in a timely manner, at a regularly scheduled Board meeting.

HEARING PROCEDURE:

- (1) After the Board and the Department determine that the applicant meets the eligibility requirements, and at the meeting of the Board following the determination, the Board will conduct a hearing, with a personal interview, on the inmate's application. Unless the Board otherwise orders or there has been a substantial change in circumstances as determined by the Board, an inmate may not reapply for a period of 12 months.
- (2) The hearing will be conducted according to the statutes relating to the prisoner furlough program or the supervised release program, whichever applies.

DECISION:

- (1) The Board will approve or deny the application of each prisoner after careful study of each prisoner's furlough or supervised release plan, criminal history, and all other pertinent case material.
- (2) If the plan is approved, the Board will, in its order, specify the length of the particular release. The Board may order the inmate released to the inmate's parole eligibility date, or for a longer or shorter period as determined for the best interests of society and the inmate.
- (3) The Board will provide the applicant with a written decision, including a statement of the reason for the decision, within a timely period after adjournment.

REVOCATION OF FURLOUGH/SUPERVISED RELEASE:

- (1) If the inmate is returned to the institution by the Department of Corrections for violation of the inmate's furlough or supervised release, the Board, at its next regularly scheduled meeting, will conduct a revocation hearing.
- (2) The inmate will be given a due process hearing to determine the nature and extent of the violation.
- (3) The conduct of the hearing will be determined by the Board. When a decision is rendered, a written copy will be given to the inmate in a timely manner.
- (4) The length of the hearing will be determined by the nature of the particular case.

APPENDIX

**STATE OF MONTANA - BOARD OF PARDONS
CASE DISPOSITION**

To: _____ Date: _____

Number: _____

This is to notify you of the Montana State Board of Pardons decision in your parole consideration, in accordance with section 46-23-201 through 46-23-218, and 46-23-1021 through 46-23-1031, MCA.

You will be granted parole subject to the standard parole conditions with the following changes and/or added special conditions:

☐ Parole when the Board determines you have successfully completed _____

☐ Regular Chemical Dependency Counseling

☐ Regular Mental Health Counseling

☐ Regular Sex Offender Counseling

☐ Regular/Random breath and/or body fluid testing for intoxicants/illegal drugs

☐ You shall not possess or use intoxicants, nor will you enter any place where intoxicants are the chief item of sale.

☐ You shall not drink intoxicants.

☐ Restricted from maintaining a checking or credit card account.

☐ Comply with court ordered conditions.

☐ Restricted from gambling or entering any place where gambling takes place.

☐ Other: _____

Any misconduct on your part prior to release, substantial changes in parole plan, and/or new information and evidence received that was not available at the time of your parole hearing may result in the rescission of your parole.

You are subject to "official detention" until the Board determines that: all Board imposed conditions, changes, and/or special conditions have been satisfied; your parole plan has been investigated and approved by Probation and Parole authorities and you have been given reporting instructions; the Board Chairman issues a parole certificate authorizing your release from confinement; and you have signed the Department of Corrections and Human Services' "Conditions of Parole" document.

CC: INMATE (yellow)
RECORDS (pink)
IPPO's (gold)

Board Member _____

Board Member _____

STATE OF MONTANA BOARD OF PARDONS

☐ Initial

☐ Reappearance

☐ Annual

CASE DISPOSITION

To: _____ No. _____ Date: _____

After careful evaluation of all relevant facts known to the Board, including those under section 46-23-202(1), MCA, and in accordance with sections 46-23-201 through 46-23-218, MCA, the Board denies your parole application or reapplication at this time:

YOUR CASE WILL BE CONTINUED UNTIL: _____ ANNUAL REVIEW DATE: _____

- ☐ A. In the opinion of the Board, there is reasonable probability that you are not at present able and willing to fulfill the obligations of a law-abiding citizen. Our conclusions are based on the following:

NEED FOR IMPROVED:

- | | | |
|--|--|---|
| <input type="checkbox"/> Institutional conduct | <input type="checkbox"/> Housing unit evaluation | <input type="checkbox"/> Work evaluations |
| <input type="checkbox"/> Institutional custody level | <input type="checkbox"/> Parole plan | <input type="checkbox"/> Attitude - no interest in parole |

Remarks/Other: _____

- ☐ B. In the opinion of the Board, there is reasonable probability that you cannot be released at this time without being a detriment to yourself or the community. Release at this time would not be in the best interest of society.

OUR CONCLUSIONS ARE BASED ON THE FOLLOWING:

- | | |
|---|--|
| <input type="checkbox"/> Nature or severity of offense(s) | <input type="checkbox"/> Multiple offenses |
| <input type="checkbox"/> Previous criminal history | <input type="checkbox"/> Poor history under parole/probation supervision |
| <input type="checkbox"/> Pattern of similar offenses | <input type="checkbox"/> Repeat sex offenses |
| <input type="checkbox"/> Previous escape(s) from custody | <input type="checkbox"/> Strong objection from criminal justice authorities and/or citizenry |

Remarks/Other: _____

- ☐ C. In the opinion of the Board, there is a need for education, job training, treatment, or continued treatment to enhance success on parole and further insure that the applicant is willing and able to fulfill the obligations of a law-abiding citizen.

THE FOLLOWING ARE INDICATED NEEDS:

- | | | |
|---|--|--|
| <input type="checkbox"/> G.E.D. | <input type="checkbox"/> Basic education | <input type="checkbox"/> Job or vocational training |
| <input type="checkbox"/> Sex offender treatment | <input type="checkbox"/> Mental health treatment | <input type="checkbox"/> Chemical dependency treatment |
| <input type="checkbox"/> Anger management | <input type="checkbox"/> Pre-release program | |

Remarks/Other: _____

CC. BOP (white)
INMATE (yellow)
RECORDS (pink)
IPPO's (gold)

Board Member _____

Board Member _____

Client's
Initials

This probation/parole is granted subject to the following conditions, limitations and restrictions.

1. RESIDENCE: You shall not change your place of residence without first obtaining permission from your Probation/Parole Officer.
2. TRAVEL: You shall not leave your assigned district without first obtaining written permission from your Probation/Parole Officer. Your assigned district is: _____
3. EMPLOYMENT: You shall maintain employment or a program approved by the Board of Pardons or your Probation/Parole Officer. You must obtain permission from your Probation/Parole Officer prior to any change of employment. _____
4. REPORTING: You are required to personally report to your Probation/Parole Officer on/during _____, or as directed. You are to submit written monthly reports on forms provided.
5. WEAPONS: You shall not own, possess or be in control of any firearms or deadly weapons, including black powder, as defined by state or federal law.
6. FINANCIAL: You must obtain permission from your Probation/Parole Officer before financing a vehicle, purchasing property or engaging in business.
7. SEARCH: Upon reasonable cause, you shall, while on parole or probation, submit to a search of your person, vehicle or residence by a Probation/Parole Officer, at any time, without a warrant.
8. LAWS & CONDUCT: You shall comply with all city, county, state, and federal laws and ordinances and conduct yourself as a good citizen. You shall report any arrests or contacts with law enforcement to your Probation/Parole Officer within 72 hours.

SPECIAL CONDITIONSThe Board of Pardons, or the Sentencing Court, has ordered the following indicated conditions:

1. ☐ You shall not drink intoxicants.
2. ☐ You shall not possess or use intoxicants, nor will you enter any place intoxicants are the chief item of sale.
3. ☐ You shall submit to breath and/or body fluid testing for intoxicants.
4. ☐ You shall submit to body fluid testing for illegal drugs.
5. ☐ You are to pay court ordered restitution in the amount of: \$ _____. The total of all court ordered money matters is: \$ _____, payable at a minimum of _____ per month, beginning _____.
6. ☐ You shall participate in ☐ chemical dependency counseling; ☐ sexual offender counseling; ☐ mental health counseling on a regular basis as determined by your probation/parole officer.

AGREEMENT

I have read, or had read to me, the foregoing rules and conditions and I will abide by them. Failure to do so may result in revocation.

WAIVER OF EXTRADITION

I do hereby waive extradition to the State of Montana from any State in the Union, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or to the State of Montana. I understand that this Probation/Parole is granted to and accepted by me, subject to the conditions, limitations, and restrictions stated herein, and with the knowledge that the Board of Pardons, Sentencing Court, or the Department of Institutions has the power, at any time, in case of violation of the conditions, limitations, and restrictions of Probation or Parole to cause my detention and/or return to prison.

WITNESS _____

PROBATIONER/PAROLEE _____

DATED _____

CONDITIONS OF INTENSIVE PROBATION AND PAROLE

This Probation/Parole is granted subject to the following conditions, limitations and restrictions.

1. **Residence** - You shall remain in your home located at _____, and abide by a stipulated curfew at all times unless otherwise approved by the Intensive Supervision Officer.
2. **Travel** - You must gain authorization from the Intensive Supervision Officer prior to leaving _____ County.
3. **Employment/Program** - You shall seek and maintain employment, or maintain a program approved by the Intensive Supervision Officer. You shall not change employment or program without obtaining permission from the Intensive Supervision Officer.
4. **Reporting** - You shall report to the Intensive Supervision Officer as outlined in the Intensive Supervision Program manual and as otherwise directed by the Intensive Supervision Officer.
5. **Weapons** - You shall not own, possess or be in control of any firearms or deadly weapons, including black powder, as defined by state or federal law.
6. **Financial** - You must obtain permission from your Intensive Supervision Officer before financing a vehicle, purchasing property or engaging in business.
7. **Search** - Upon reasonable cause, you shall, while on Intensive Parole or Probation, submit to a search of your person, vehicle or residence by an Intensive Supervision Officer or designee, at any time without a warrant.
8. **Laws & Conduct** - You shall comply with all city, county, state, and federal laws and ordinances and conduct yourself as a good citizen. You shall report any arrest or contacts with law enforcement to your Intensive Supervision Officer immediately. You shall not possess a scanner at any time.
9. **Intoxicants** - You shall not use or possess intoxicants, nor will you enter any place where intoxicants are the chief item of sale. You shall not use or possess illegal drugs. You shall not enter/remain in any place where illegal drugs are being used.
10. **Testing** - You shall submit to breath and/or fluid testing for intoxicants and/or illegal drugs.
11. **Community Service** - During the period of supervision, you shall perform _____ hours of community service as approved by your Intensive Supervision Officer.
12. **Equipment** - You will be required to wear, maintain and care for electronic surveillance equipment that will be utilized to monitor your curfew compliance. This equipment is the property of the State of Montana and your acceptance of the use of the wristlet and verifier as a condition of probation and parole confirms your agreement not to open or abuse this equipment. Opening, destroying, loss or theft of either item constitutes a crime punishable under the law.
13. **Supervision Fees** - You are required to pay a supervision fee to offset the cost of your supervision. The fee is to be paid to the Clerk of District Court per MCA Section 46-23-1031 & 45-9-202.

SPECIAL CONDITIONS

The Board of Pardons, or the Sentencing Court, has ordered these additional indicated conditions:

1. ☐ You are to pay court ordered restitution in the amount of: \$ _____. The total of all court ordered money matters is: \$ _____, payable at a minimum of \$ _____ per month, beginning _____.
2. ☐ You shall participate in ☐ chemical dependency counseling, ☐ sexual offender counseling, ☐ mental health counseling on a regular basis as determined by your Intensive Supervision Officer.
 1. _____
 2. _____
 3. _____
 4. _____
 5. _____

I have read, or had read to me, the foregoing rules and conditions and I will abide by them. Failure to do so may result in revocation.

WAIVER OF EXTRADITION

I do hereby waive extradition to the State of Montana from any State in the Union, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or to the State of Montana. I understand that this Probation/Parole is granted to and accepted by me, subject to the conditions, limitations, and restrictions stated herein, and with the knowledge that the Board of Pardons, Sentencing Court, or the Department of Institutions has the power, at any time, in case of violation of the conditions, limitations, and restrictions of Probation or Parole to cause my detention and/or return to prison.

WITNESS _____

PROBATIONER/PAROLEE _____

DATED _____

STATE OF MONTANA BOARD OF PARDONS AND PAROLE

300 Maryland Avenue ~ Deer Lodge, Montana 59722
Phone (406) 846-1404 Fax (406) 846-3512

To: Judge _____ DATE: _____
Sheriff _____
County Attorney _____

FROM: Craig Thomas, Executive Director

Please be advised that _____, received on _____,
and convicted of _____, will appear
for parole consideration _____, in accordance with 46-23-201, MCA, and may be released
on _____, if approved by the Board. This offender's projected sentence completion
date is _____. Parole release notification will be made if a request is sent to
the Montana State Prison Records Department and/or the Board of Pardons and Parole. Victims are permitted to present a
statement to the Board regarding the effects of the crime, circumstances surrounding the crimes, the manner in which the
crime was perpetrated, and an opinion whether the offender should be paroled. Exact hearing date, location, and approximate
time can be obtained by contacting the Board's office.

COMMENTS:

If you have any requests or information relating to this individual's parole consideration, please comment on this form
and return to the Board of Pardons and Parole as soon as possible.

Name: _____ Title: _____
(Print)
Address: _____ Phone: _____

CC: Chief of Police
Parole Office
Victim (if applicable)

STATE OF MONTANA



BOARD OF PARDONS AND PAROLE

300 Maryland Avenue ~ Deer Lodge, Montana 59722

Phone (406) 846-1404

CONDITIONAL DISCHARGE
FROM SUPERVISION

TO ALL WHO SEE THESE PRESENTS, GREETINGS:

WHEREAS, the Board of Pardons and Parole of the State of Montana has, on the _____ day of _____, 19____, granted parole from the Montana Department of Corrections to _____.

AND WHEREAS, _____, by his/her exemplary conduct and attitude has indicated that he/she has achieved a maximum benefit from parole supervision, thereby earning the confidence and trust of the Board of Pardons and Parole.

NOW THEREFORE, the Board of Pardons and Parole does grant to _____ a conditional discharge from parole supervision subject to the following conditions:

DONE at Deer Lodge, Montana, this _____ day of _____, 19____

By: _____, Board Chair

(SEAL)

Attest: _____, Executive Director

STATE OF MONTANA



BOARD OF PARDONS AND PAROLE

300 Maryland Avenue ~ Deer Lodge, Montana 59722

Phone (406) 846-1404

FINAL DISCHARGE

TO ALL WHO SEE THESE PRESENTS, GREETINGS:

WHEREAS, _____, who was, on the _____ day of _____, 19_____, sentenced by the District Court in and for _____ County to the Department of Corrections for _____ for the crime(s) of _____ and was, on the _____ day of _____, 19_____, paroled, and has satisfactorily completed the parole period, on the _____ day of _____, 19_____.

Supervising Officer

Date

NOW THEREFORE, the Board of Pardons and Parole does hereby discharge _____ from obligation to the State of Montana and issues this FINAL DISCHARGE. Under Section 46-18-801, MCA, and the rules and regulations of the Board of Pardons and Parole, your Civil Rights are restored.

DONE at Deer Lodge, Montana, this _____ day of _____, 19_____.

APPROVED:

Governor, State of Montana

By: _____
Board Chair, Board of Pardons and Parole

(SEAL)

Attest: _____
Executive Director, Board of Pardons and Parole



BOARD OF PARDONS AND PAROLE

300 Maryland Avenue ~ Deer Lodge, Montana 59722

TO: THE MONTANA DEPARTMENT OF CORRECTIONS

and

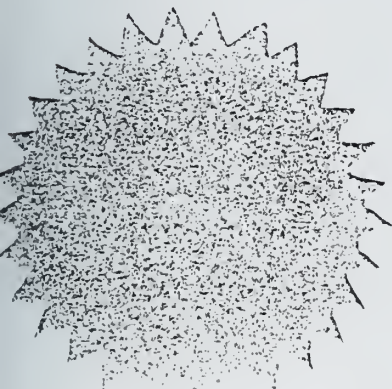
TO: _____, Corrections Number _____,
hereinafter referred to as Parolee:

WHEREAS, the Parolee, who is now confined in the _____,
was committed by lawful judgement to serve a term of _____
years imprisonment, which term commenced on the _____ day of _____,
19_____.

WHEREAS, the Montana State Board of Pardons and Parole, hereinafter called the Board,
has considered all pertinent information concerning the Parolee as required by law and has
interviewed said Parolee personally and after due deliberation has concluded that it will be in the
best interest of society to place said prisoner on parole.

NOW THEREFORE, it is hereby ordered that _____ be
placed on parole from said term of imprisonment. This parole shall commence on the _____
day of _____, 19_____, and shall remain in force and effect until the
_____ day of _____, 19_____, unless either the date of commencement
or the date of termination is changed by order of the Board or by operation of law after due
notice to the Department of Corrections and to the Parolee. This parole shall be and remain in
full force and effect subject to the conditions set forth and only so long as the Parolee shall
faithfully and fully perform and observe each and all of said conditions, restrictions, and
limitations. Termination date including Good Time as provided in Section 53-30-105(3), MCA,
is the _____ day of _____, 19_____.

DATED at Deer Lodge, Montana, this _____ day of _____, 19_____.



BOARD OF PARDONS AND PAROLE

Attest: _____
Executive Director

By: _____
Board Chair

CJW:forms/cert129

TABLES

State of Montana - Board of Pardons and Parole Executive Clemency Report

Name	Crime	Date, County, and Sentence	Executive Order Signed	Board Member Objections	Reason
Duncan Peder McKenzie	Deliberate Homicide; Aggravated Kidnapping	3-3-75, Cascade, Death	Capital Offense, Board recommended against Executive Clemency, Governor Racicot did not grant clemency	None	McKenzie executed May 10, 1995
Michael Gary Davies	Assault and Battery with a Weapon	4-1-69, Jefferson, 3yrs Probation, 4mos Jail	4-9-93, Racicot, Pardon	None	Demonstrated exemplary performance
Gene Earl Brown	Issuing a Bad Check	11-14-90, Flathead, 10yrs	11-6-92, Stephens, Commutation	None	Substitute non-dangerous for dangerous designation to allow parole eligibility (terminal illness)
John Dickens Armstrong	Aggravated Assault; Intimidation; Deviate Sexual Conduct; Escape	7-30-79, Dawson, 40yrs	10-7-92, Stephens, Commutation	None	Substitute non-dangerous for dangerous designation to allow parole eligibility (life in danger)
Lynn D. Kirsch	Possession of Dangerous Drugs with Intent to Sell	3-22-82, Missoula, 5yrs	10-19-92, Stephens, Pardon	None	10 years of exemplary adjustment
Edward Keith Joliff	Theft	Fergus, 45 days MSP, 3yrs Probation	10-19-92, Stephens, Pardon	None	Demonstrated exemplary performance
Francis Lee Auld	Negligent Homicide	Missoula, 9yrs w/7yrs 182 days suspended	4-23-92, Stephens, Pardon	None	Demonstrated exemplary performance
Debra Segna	Forgery	Silverbow, 10yrs	11-27-91, Stephens, Pardon	None	Demonstrated exemplary performance
Mark Mumion	Sale of Drugs; Possession of Drugs; Theft	Fergus, 2yrs	4-10-91, Stephens, Pardon	None	Demonstrated exemplary performance
Letha Martz	Issuing Bad Checks	Richland, 3yrs	6-26-90, Stephens, Pardon	None	Demonstrated exemplary performance - employment limitations
Wanda Marie Olsen	Forgery; Possession of Dangerous Drugs	Yellowstone, 2yrs, 6mos	6-12-90, Stephens, Pardon	None	Demonstrated exemplary performance - employment limitations
Robert Richard Reed	Burglary	7-22-83, Custer, 5yrs Probation	5-22-90, Stephens, Pardon	None	Minor offense, no criminal history, and exemplary performance

Name	Crime	Date, County, and Sentence	Executive Order Signed	Board Member Objections	Reason
Arthur Fenton	Issuing Bad Checks	5-10-47, Cascade, 1yr	2-22-90, Stephens, Pardon	None	Length of time elapsed since conviction - exemplary performance
David C. Keith	Aggravated Kidnapping	4-17-85, Lake, Death	12-29-88, Schwinden, Commutation	Chair Burgess dissented - Death sentence appropriate	Substituted Life w/out Parole for Death
Scott Koontz	Burglary	4-25-75, Park, 60 days Prison, 3yrs 6mos Probation	5-13-88, Schwinden, Pardon	None	Exemplary performance
John P. Clair	Murder, 2nd	6-2-55, Lewis & Clark, 75yrs	5-13-88, Schwinden, Commutation	None	Committed to time served - length of time served, good adjustment
James L. Smith	Manslaughter	5-2-63, Silverbow, 5yrs	2-25-88, Schwinden, Pardon	None	Exemplary performance for over 20 years
William Foster	Attempted Deliberate Homicide: Robbery	4-23-75, Silverbow, 25yrs	2-9-88, Schwinden, Commutation	None	Sentence committed to time served
Delmer J. Howard	Murder	11-9-54, Silverbow, 18yrs	2-9-88 Schwinden, Pardon	None	Exemplary performance for nearly 30 years
Charles A. Vestre	Issuing Bad Checks	1-19-54, Flathead, 10yrs	10-16-87, Schwinden, Pardon	None	Exemplary performance, time elapsed since offense, minor offense
Patrick E. Dumam	Possession of Dangerous Drugs, 2cts	1-19-78, Gallatin, 7yrs w/3yrs 6mos suspended	7-20-87, Schwinden, Pardon	None	Exemplary performance
Everette T. Howard	Mitigated Deliberate Homicide: Burglary	6-14-77, Missoula, 25yrs w/15yrs: 6-30-64, Silverbow, 3yrs Prob	7-20-87, Schwinden, Pardon and Commutation	None	Committed to time served and granted Pardon. Tremendous rehab effort - Masters degree
Justin Fields	Possession Dangerous Drugs	5-2-75, Yellowstone, 18mos	3-9-87, Schwinden, Pardon	None	Exemplary performance, time elapsed since offense
Eugene E. Patneau	Sexual Assault	1-14-83, Cascade, 10yrs	12-22-86, Schwinden, Commutation	None	Committed from 10yrs to 5yrs - terminal illness (6-8-87 deceased)
William F. Masseur	Theft, 5cts	7-1-80, Meagher, 5yrs Probation	8-21-86, Schwinden, Pardon	None	Exemplary performance

Name	Crime	Date, County, and Sentence	Executive Order Signed	Board Member Objections	Reason
Kenneth M. Ingle	Theft	3-1-82, Lincoln, 5yrs Probation	8-21-86, Schwinden, Pardon	None	Exemplary performance
John G. Fairservice	Burglary	3-28-52, Toole, 3yrs Probation	8-21-86, Schwinden, Pardon	None	Exemplary performance, time elapsed since conviction - employment restrictions
Joseph Miller Sr.	Unauthorized Use of a Motor Vehicle; Forgery	5-19-54, Valley, 3yrs; 2-21-51, Roosevelt, 1yr	2-13-85, Schwinden, Pardon	None	Exemplary performance
Robert L. Olson	Grand Larceny; Forgery; Burglary	5-26-72, Lincoln, 14yrs all ss but 5mos; 5-27-68, Toole, 3yrs 6mos; 10-20-66, Toole, 48mos	2-13-85, Schwinden, Pardon	None	Time elapsed since conviction, exemplary performance
Donald E. Ferriter	Disorderly Conduct; DWI	3-8-81, Lewis & Clark, Bond Forfeiture; 7-24-78, Lewis & Clark, Fine	8-13-84, Schwinden, Pardon	None	Business restrictions, exemplary performance
Edwin Rasmussen	Deliberate Homicide	4-30-75, Fergus, 50yrs w/20yrs suspended	7-12-84, Schwinden, Commutation	None	Sentence commuted to 25yrs - and lengthy supervision
Jesse R. Coate	Theft (m)	7-6-83, Rosebud, 30 days Jail suspended	3-16-84, Schwinden, Pardon	None	Exemplary performance
Alex Sam	Armed Robbery	9-30-52, Missoula, 20yrs	3-16-84, Schwinden, Pardon	None	Exemplary performance, time elapsed since conviction
Grace Lavene Chasing Hawk	Negligent Homicide	9-24-75, Yellowstone, 10yrs w/3yrs suspended	1-12-84, Schwinden, Pardon	None	Exemplary performance

MONTANA STATE BOARD OF PARDONS AND PAROLE

STATISTICAL DATA FY 95-96

MO	NO CASE	W	INTV FOR PARL.	INTV GRNT PARL.	*TOTAL PARLD	1ST OFFNS	** PAROLE VIOLATORS TV NC PR	RSC	ANNUAL REVIEW CNG/NC	RLS ON PARL.	PARL COMP
Jul	104	46	42	19	23	12	5 0 3	5	11 23	23	14
Aug	137	44	53	37	37	17	14 3 7	2	11 35	27	11
Sep	106	60	47	26	31	15	6 1 4	4	5 18	21	17
Oct	146	58	63	42	54	26	14 0 11	2	10 30	30	13
Nov	131	47	37	21	30	16	10 1 4	7	9 31	42	16
Dec	113	46	57	32	39	21	15 1 9	4	10 25	33	15
Jan	121	43	50	25	30	16	8 3 6	4	12 22	30	13
Feb	125	33	44	24	33	16	9 0 4	7	19 23	23	23
Mar	145	37	59	36	47	16	9 1 6	4	19 26	25	13
Apr	165	50	77	48	56	31	9 4 5	1	15 24	29	16
May	143	39	50	29	42	23	7 3 8	6	18 31	29	16
Jun	150	47	79	40	48	28	10 0 7	2	8 26	34	14
FY 96	1616	550	658	379	470	237	116 17 74	48	147 314	346	181

Reflects the total number of inmates granted parole, including annual reviews, revocations, discussion cases, and change of disposition.

Does not include parole violators who are reinstated. Includes parole violators not returned to MSP.

NOCASE=Total number of cases W=Waived appearance INTV=Interviewed by the Board PARL=Parole
GRNT=Granted PARLD=Paroled OFFNS=Offense TV=Technical violations NC=New felony conviction
PR=Completed pre-release, included in total parole violators RSC=Parole rescinded CNG=Change in
annual review status NC=No change annual review status RLS=Release PAR=Parole PARL COMP=All parole
completions

MO	INTERVIEWED A D S V	PAROLED A D S V	TIME PARL	TIME BIT	PARL INIT	DFS	PARD Y N	COMM Y N	SVRL Y N
Jul	31 25 4 14	18 13 3 6	20.9	32.2	13	0	0 1	0 1	0 0
Aug	42 33 1 19	29 28 0 12	32.7	35.5	25	1	0 1	0 0	0 0
Sep	37 23 2 13	26 14 2 9	22.5	19.8	21	0	0 0	0 0	0 0
Oct	48 27 3 27	41 30 1 19	29.7	23.1	26	0	0 0	0 0	0 0
Nov	32 27 2 14	26 22 2 7	28.9	22.8	14	0	0 0	0 0	0 0
Dec	46 38 3 19	34 23 0 9	22.7	21.6	26	1	0 0	1 0	0 0
Jan	36 30 2 18	23 17 0 11	30.9	23.6	17	0	0 1	0 0	0 0
Feb	37 28 5 19	29 17 1 8	40.6	19.7	16	0	0 3	0 0	0 0
Mar	46 42 5 22	37 36 1 11	30.9	26.5	26	0	0 0	0 0	0 0
Apr	65 56 11 30	45 35 2 15	25.5	26.3	33	0	0 0	0 0	0 0
May	41 29 7 24	33 25 3 16	46.3	28.8	17	0	1 0	0 0	0 0
Jun	60 45 10 30	37 31 1 13	30.4	22.2	30	0	0 0	0 0	0 0
FY 96	524 403 55 249	378 291 16 136	30.2 AV	25.2 AV	264	2	1 6	1 1	0 0

A=Alcohol problem D=Drug problem S=Sex offense V=Violent offense TIME=Months served PARL=Paroled
 INIT=First Board appearance DFS=Discharge from supervision PARD=Pardon Y=Granted N=Denied COMM=Commutation
 SVRL=Supervised release

Submitted,

BOARD OF PARDONS

John G. Thomas, Chairman

Craig Thomas, Executive Director

Jeff A. Walter
 Administrative Officer

J. Hank Pfeifer
 C & T Specialist

AWwp\statfy.95-96

CC: Board Staff, Board Members, Warden, C&T, and DOC statistics.

MONTANA BOARD OF PARDONS AND PAROLE

ELIGIBILITY REQUIREMENTS

January, 1996

1995 LEGISLATIVE AMENDMENTS IN PAROLE ELIGIBILITY

~ Effective for crimes committed on or after April 13, 1995 ~

1. Offenders will serve a flat 25% of a sentence to eligibility. (Equivalent to the time required under a *dangerous* designation prior to the amendment).
2. Eliminated *dangerous* and *non-dangerous* designations. Unless the courts otherwise order, offenders will serve what in effect was previously dangerous designation time.
3. Eliminated the requirement that inmates serve a maximum of 17½ years on a time sentence.
4. Eliminated early parole consideration. Prior to amendments, if the prison exceeded designed capacity, the Board was required to consider eligible inmates 120 days prior to their eligibility date.
5. Effective February 1, 1997, good time for discharge purposes is eliminated. Offenders will serve **25%** to parole *consideration* (approximately 50% of the offenders considered are denied parole at initial appearance) and **100%** of sentence to discharge. The Sentencing Commission is required to make a recommendation to the Legislature regarding good time.

Examples

Note: all inmates have been earning 30 days per month good time since July 1, 1995. Current discharge dates, as reflected in this report, are for demonstration purposes only! Most offenders have not earned 30 days per month good time during the entire length of incarceration and, therefore, would not reduce the sentence in half.

SENTENCE LENGTH

PAROLE ELIGIBILITY		DISCHARGE	
<u>Before 4-13-95</u>	<u>After 4-12-95</u>	<u>Current</u>	<u>After 2-1-97</u>
<u>Life Sentence:</u> 30yrs less gt = 15yrs	<u>Life</u> 30yrs	Life	Life
<u>100yr Sentence</u> Dangerous = Max time 17½yrs Non-dangerous = 25yrs less gt - 12½yrs	<u>100yrs</u> 25yrs	50yrs	100yrs
<u>80yr Sentence</u> Dangerous = 40yrs less gt - Max time 17½yrs Non-dangerous = 20yrs less gt - 10yrs	<u>80yrs</u> 20yrs	40yrs	80yrs

SENTENCE LENGTH

PAROLE ELIGIBILITY

Before 4-13-95

60yr Sentence

Dangerous = 30yrs less gt - 15yrs

Non-dangerous = 15yrs less gt - 7½yrs

40yr Sentence

Dangerous = 20yrs less gt - 10yrs

Non-dangerous = 10yrs less gt - 5yrs

20yr Sentence

Dangerous = 10yrs less gt - 5yrs

Non-dangerous = 5yrs less gt - 2½yrs

10yr Sentence

Dangerous = 5yrs less gt - 2½yrs

Non-dangerous = 30mos less gt - 15mos

5yr Sentence

Dangerous = 2½yrs less gt - 1yr 6mos

Non-dangerous = 15mos less gt - 7½mos

After 4-12-95

60yrs

15yrs

40yrs

10yrs

20yrs

5yrs

10yrs

2½yrs

5yrs

1yr 6mos

DISCHARGE

Current

30yrs

20yrs

10yrs

5yrs

2½yrs

After 2-1-97

60yrs

40yrs

20yrs

10yrs

5yrs

FIGURES

BOARD OF PARDONS AND PAROLE CASELOAD 1976 THROUGH 1995

Sharp increase in cases in 1991 and 1992 was due to a change in waiver policy!

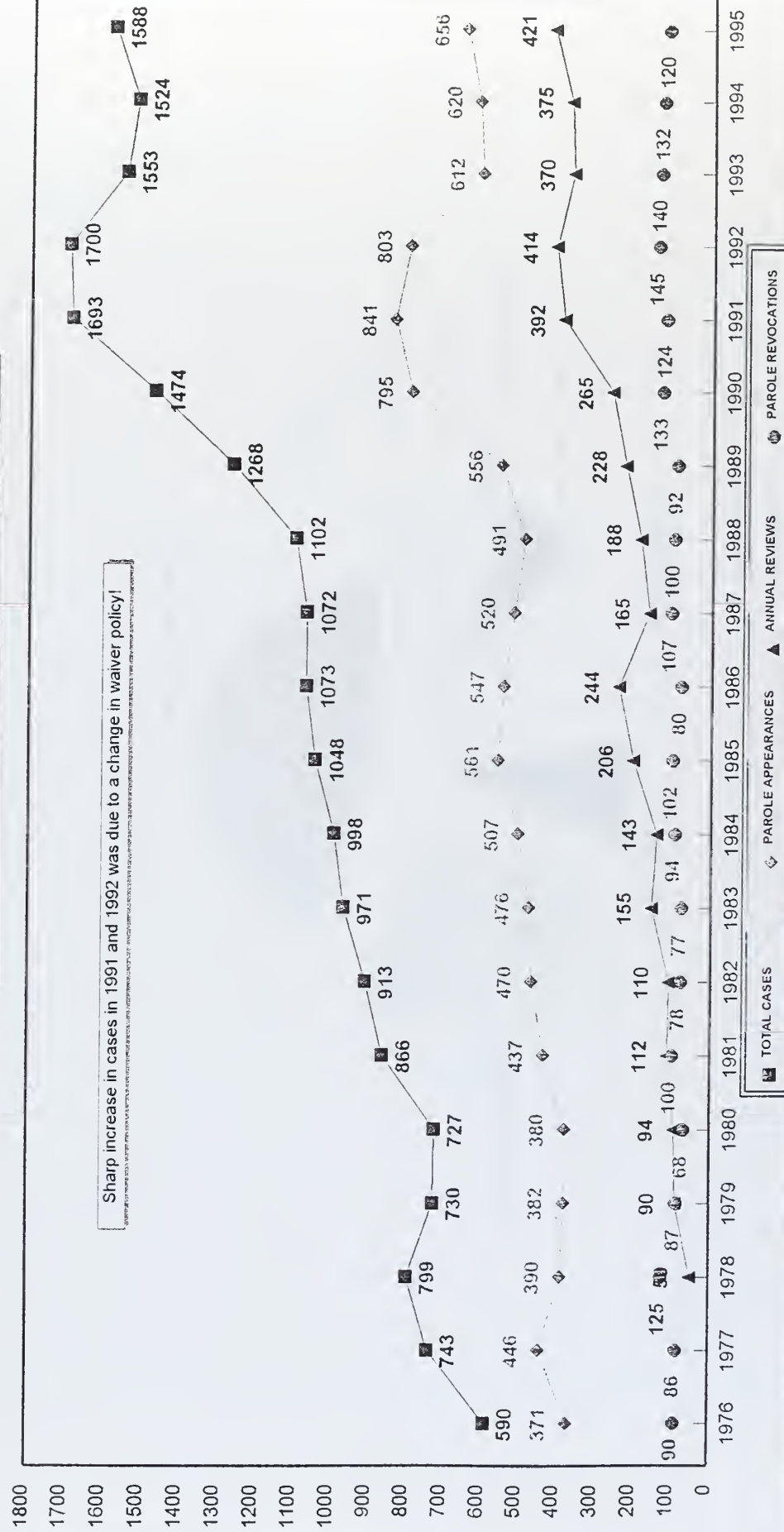
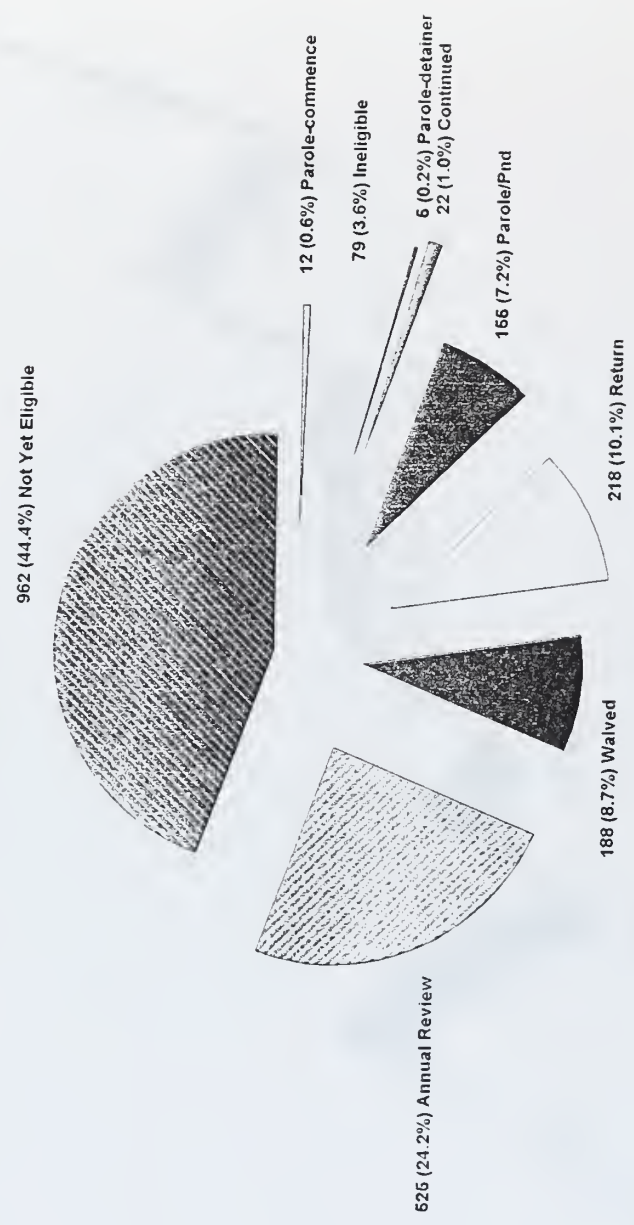


FIGURE 1

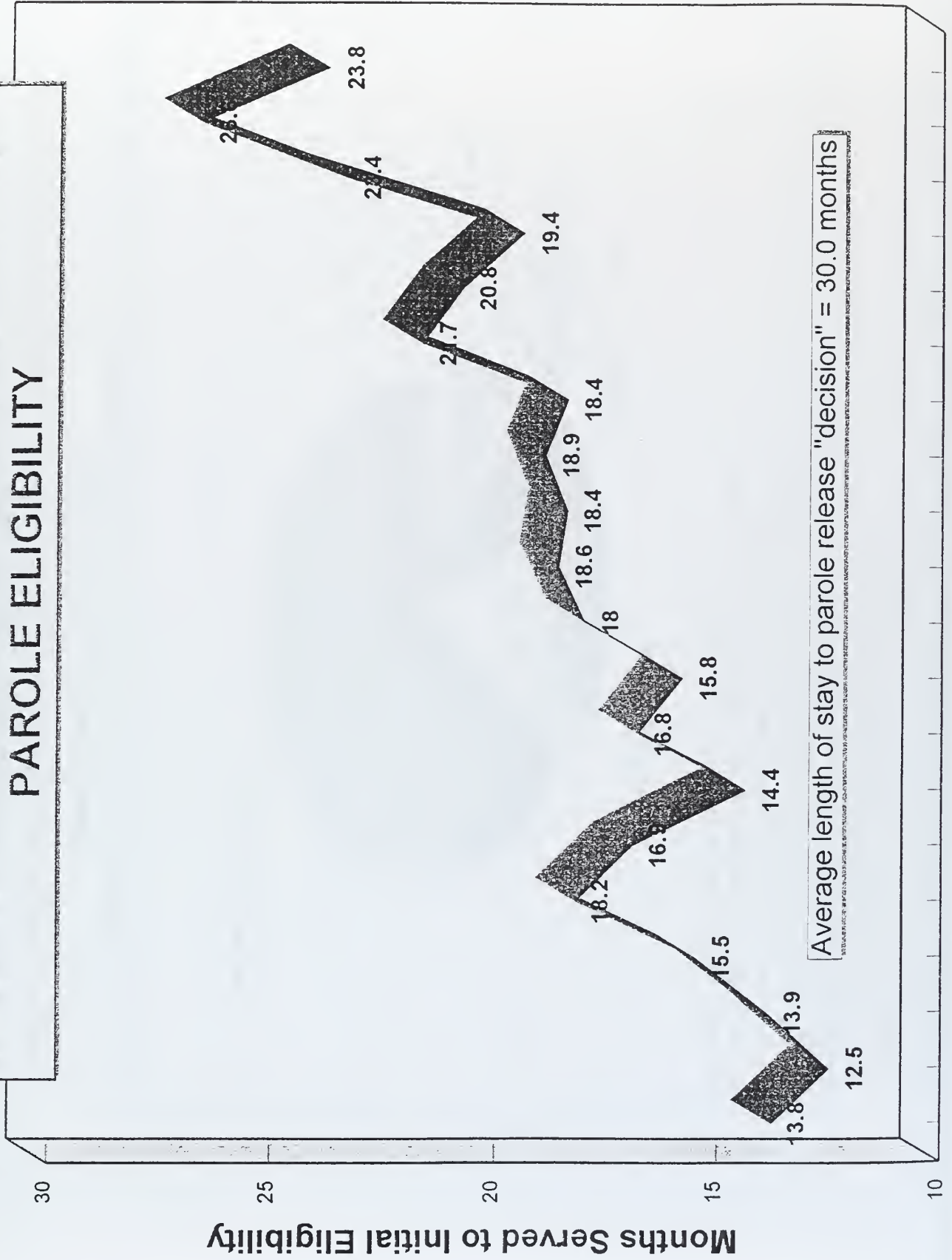
Figure 2

Correctional Population-Parole Eligibility

June 30, 1996



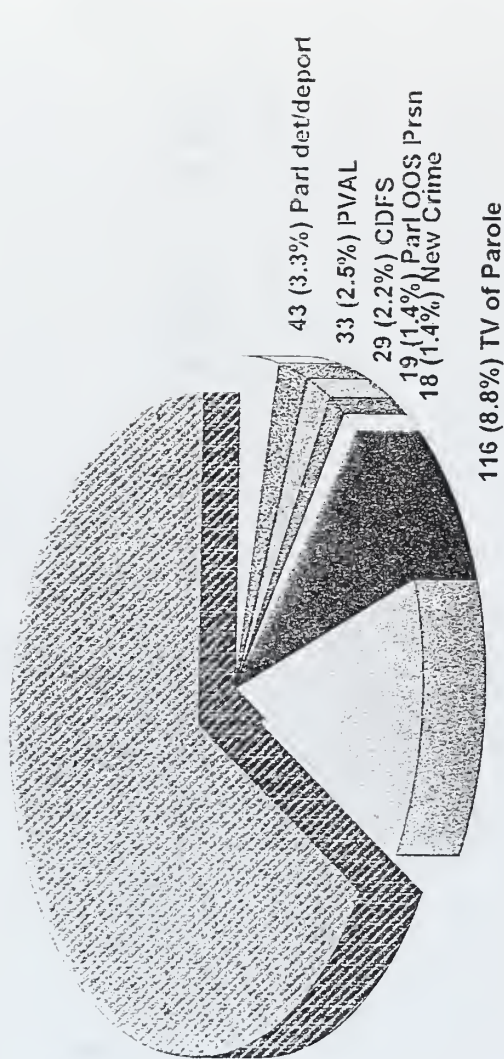
MONTANA BOARD OF PARDONS AND PAROLE PAROLE ELIGIBILITY



MONTANA STATE BOARD OF PARDONS AND PAROLE PAROLE POPULATION

Detail Status Report 7/1/95 to 6/30/96

881 (66.7%) Active Parole



181 (13.7%) Parl Comp

Individuals currently on parole supervision = Active Parole
 Individuals who have completed their parole supervision terms = Parl Comp
 Individuals who have technically violated their paroles = TV of Parole
 Individuals who have committed a new crime while on parole = New Crime
 Individuals who are on parole, but in another prison out of state = Prol OOS Prn
 Individuals who are granted a Conditional Discharge = CDFs
 Individuals who are Parole Violators at Large = PVAL
 Individuals who are Paroled to Detainer/Deported = Parl Det/Deport

881
181
116
43
33
29
19
18
19
33
43

TOTAL PAROLE POPULATION 7/1/95 TO 6/30/96

1320

FIGURE 5

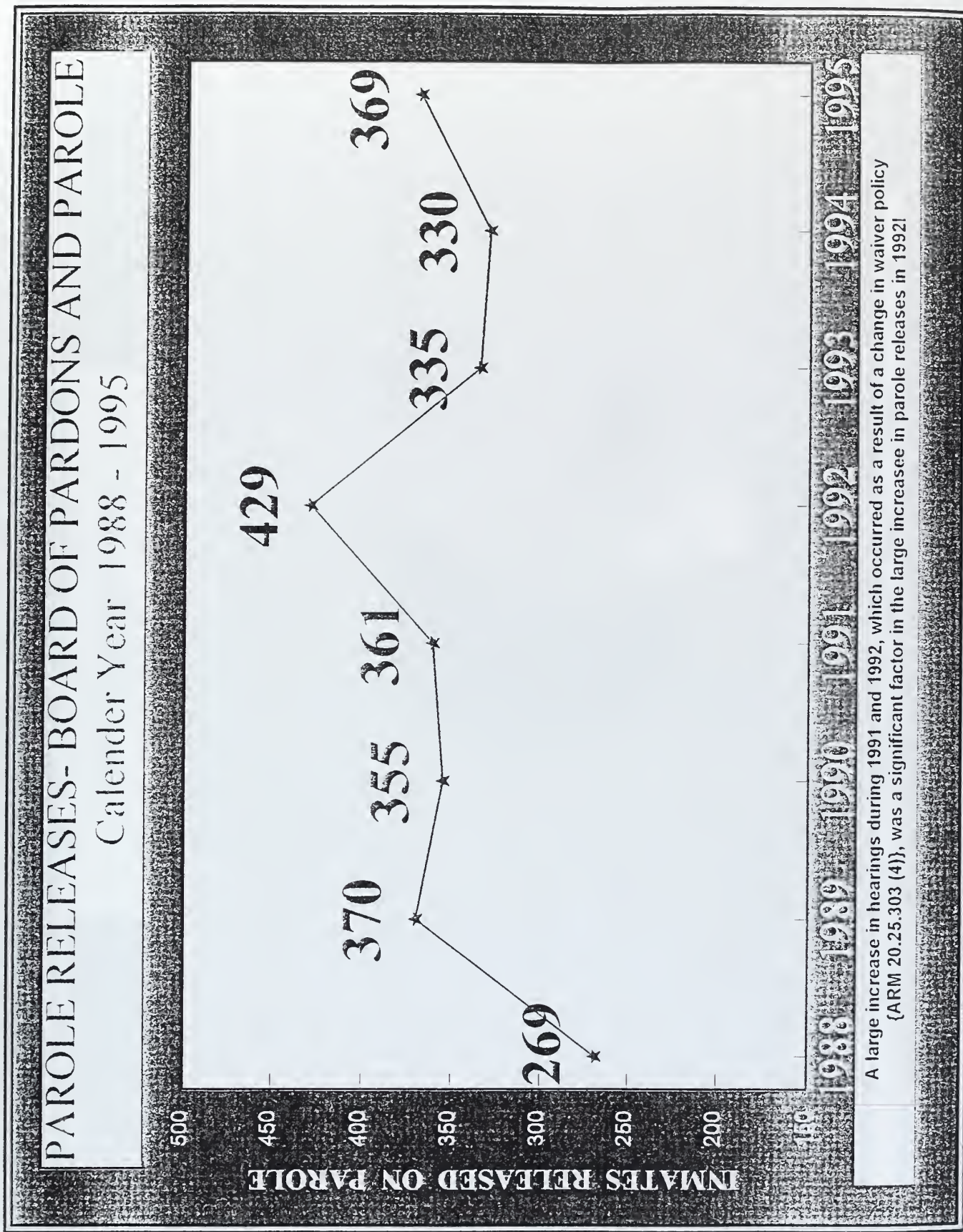


Figure 6

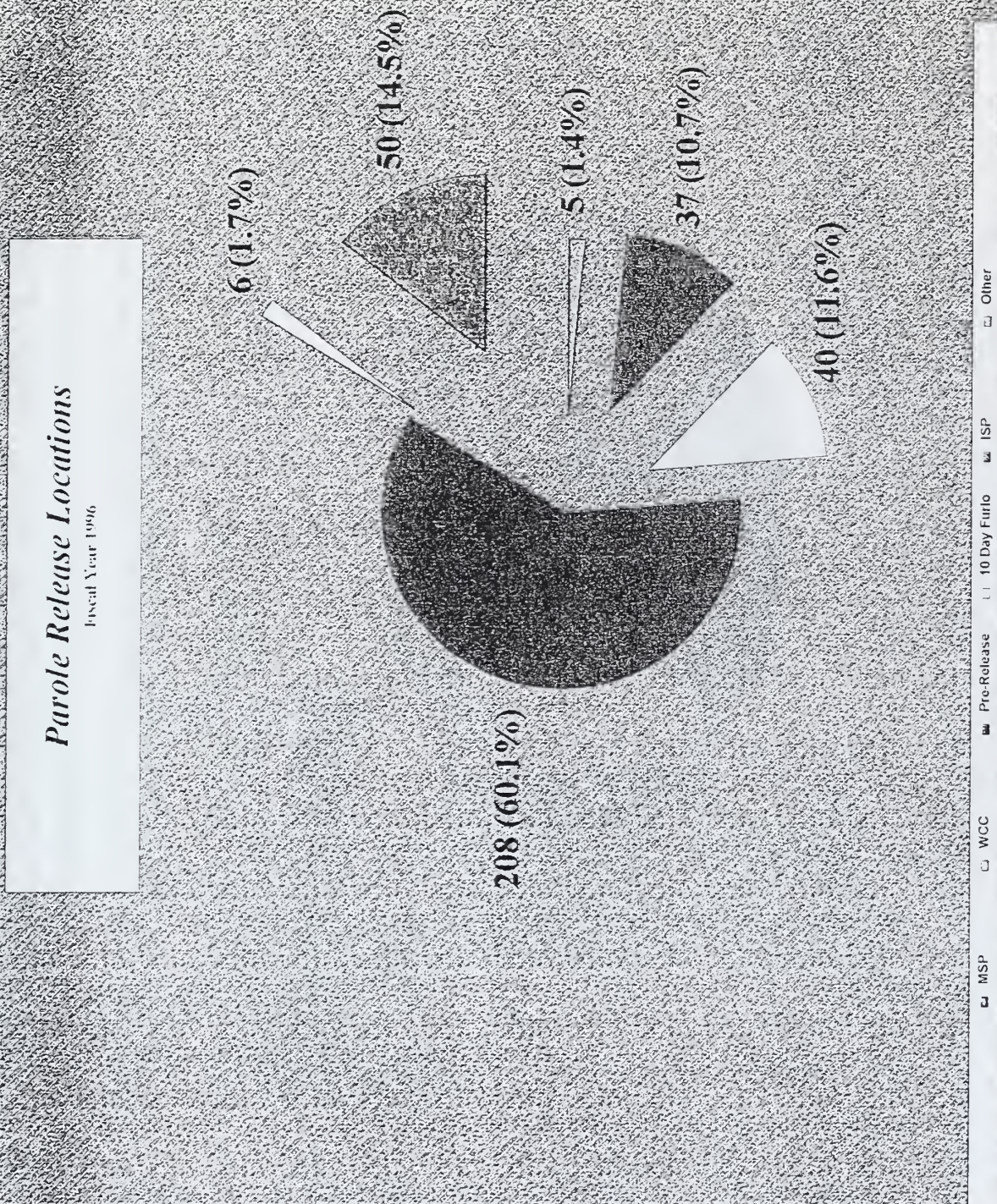


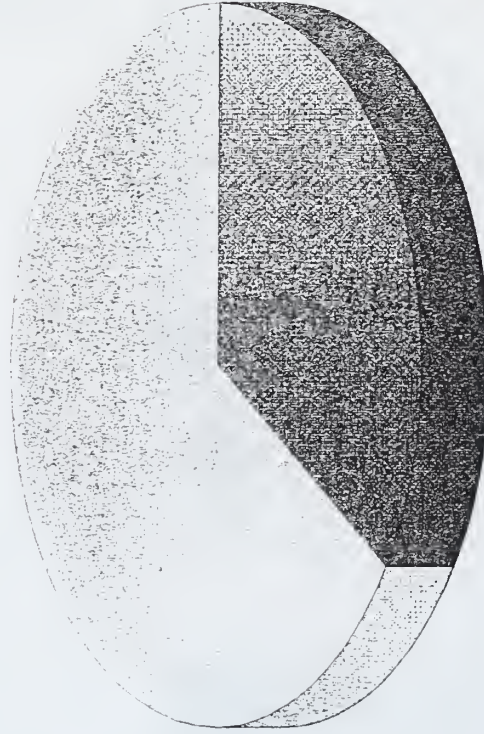
Figure 7

OFFENDER DISCHARGE REPORT FY 96

(Released from custody after completing sentence)

Montana Board of Pardons and Parole

185 (65.6%)



97 (34.4%)

■ No previous parole experience ■ Previous parole experience

Figure 8

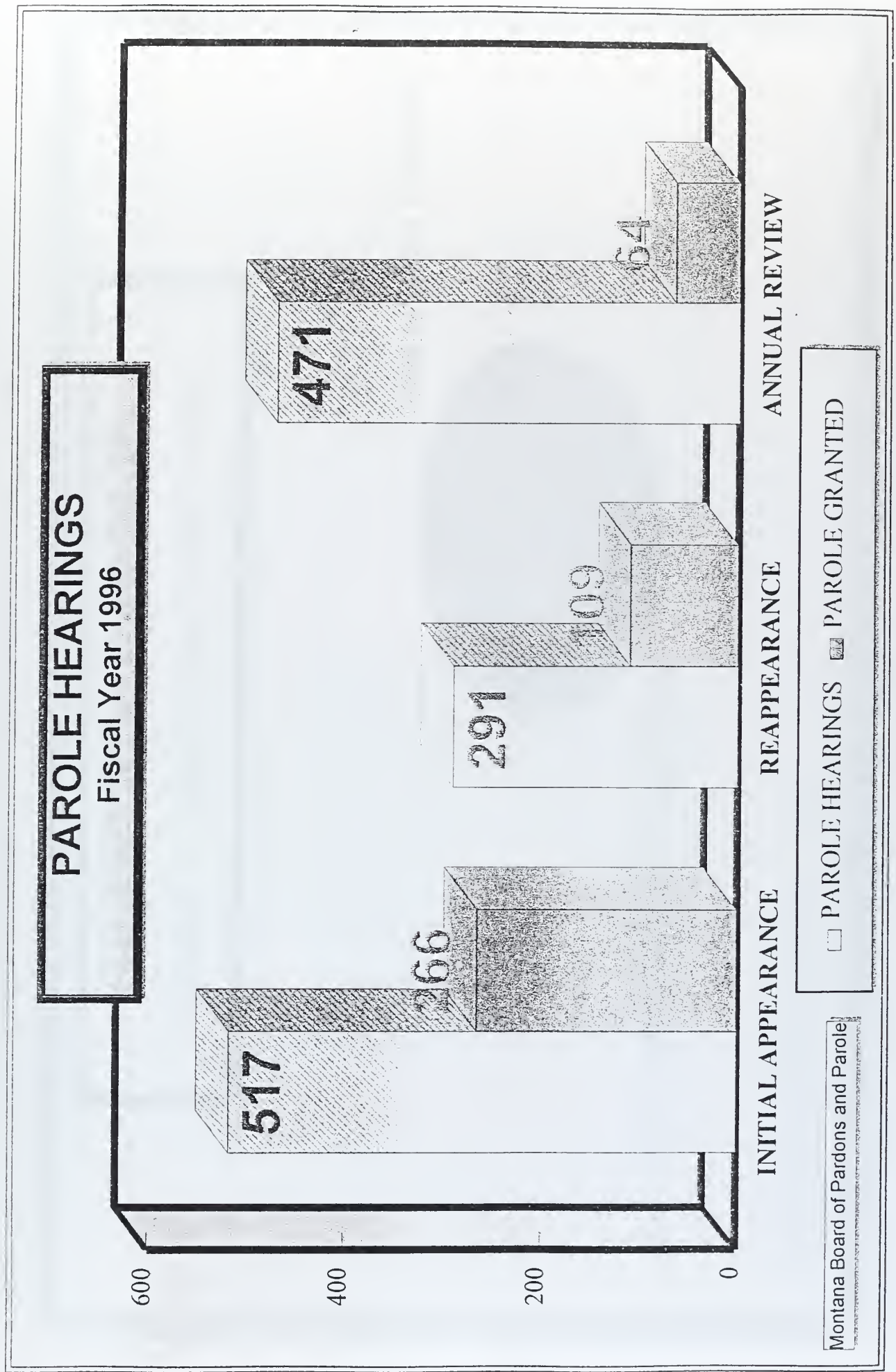


Figure 9



Figure 10

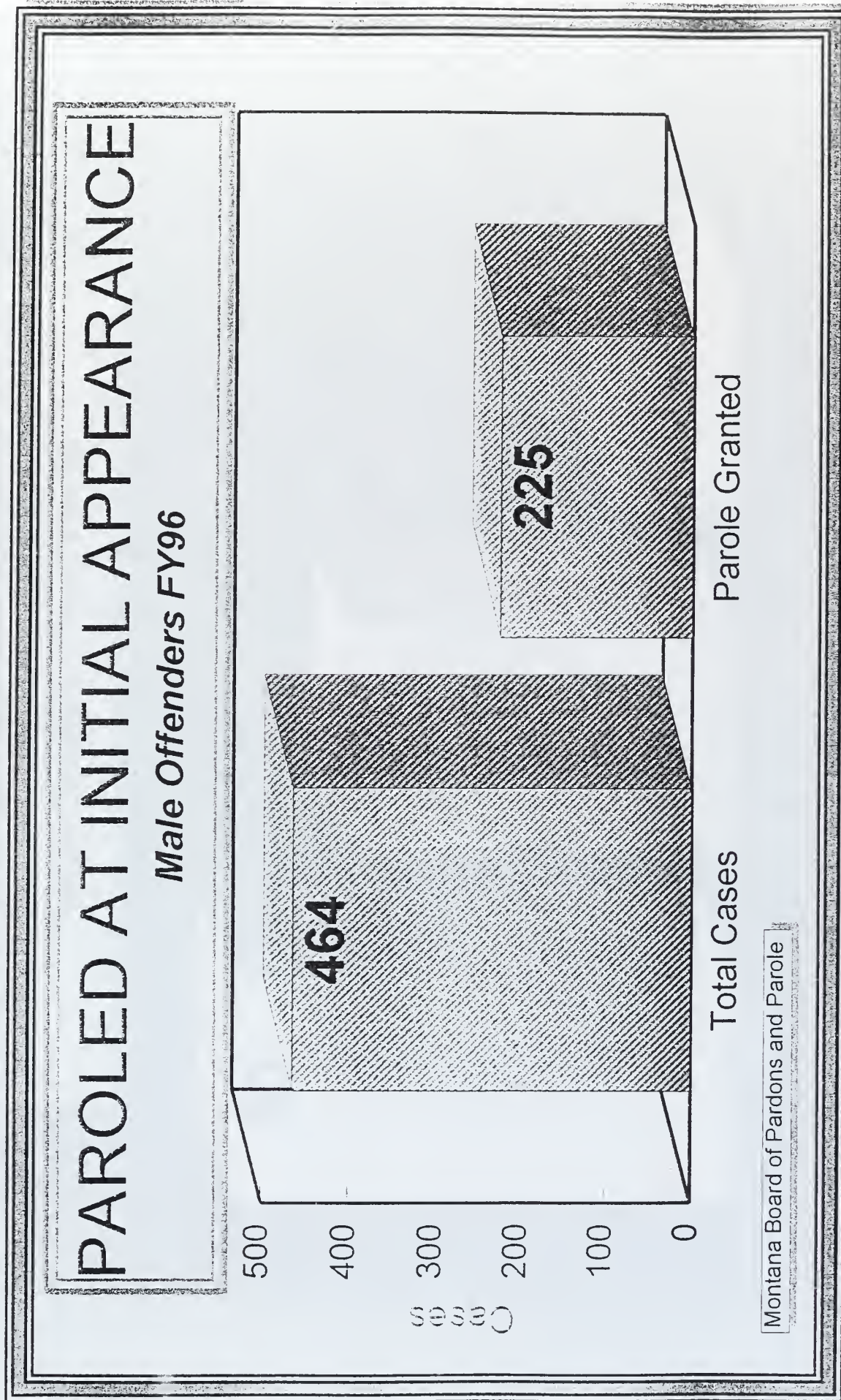


Figure 11

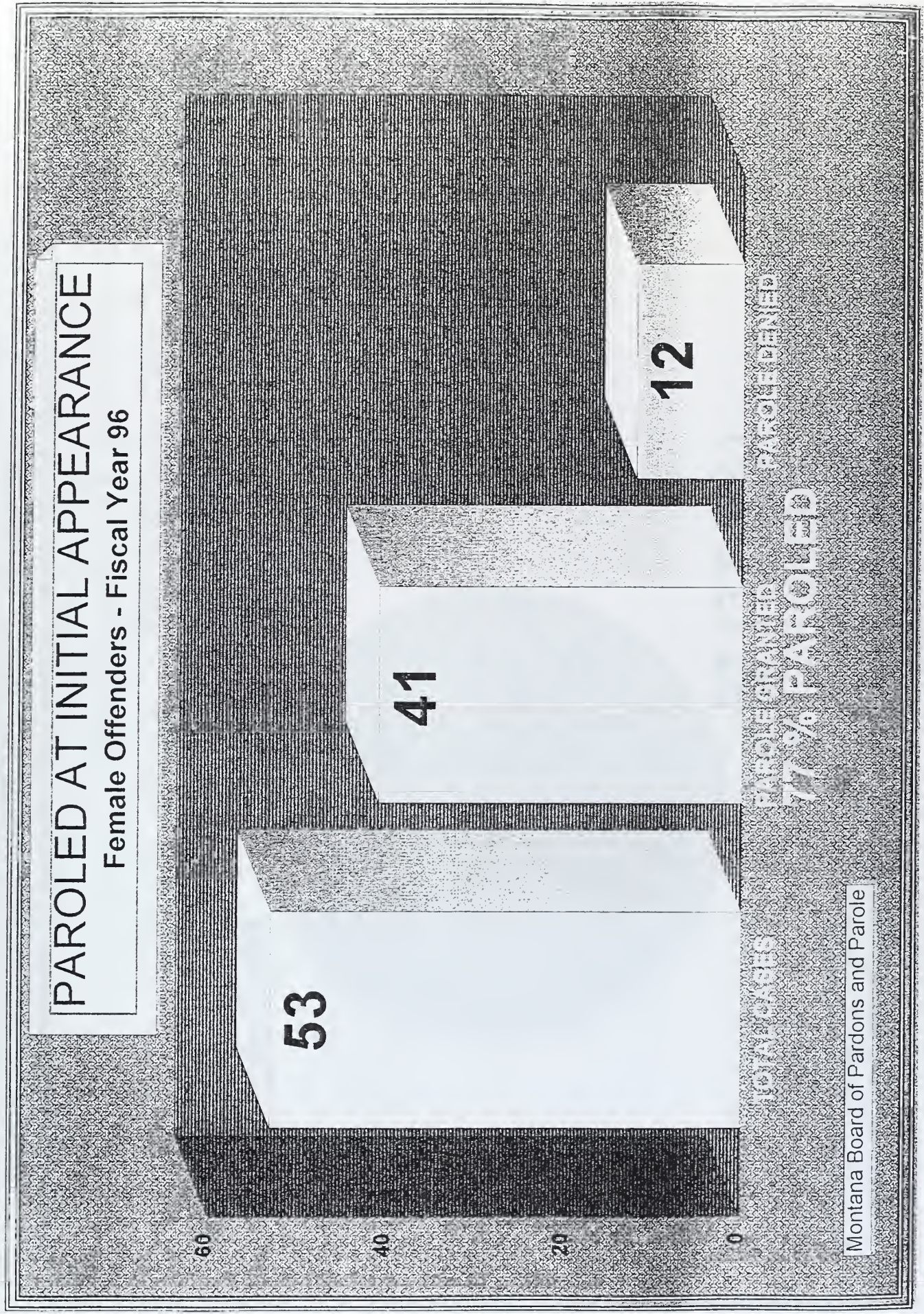


Figure 12

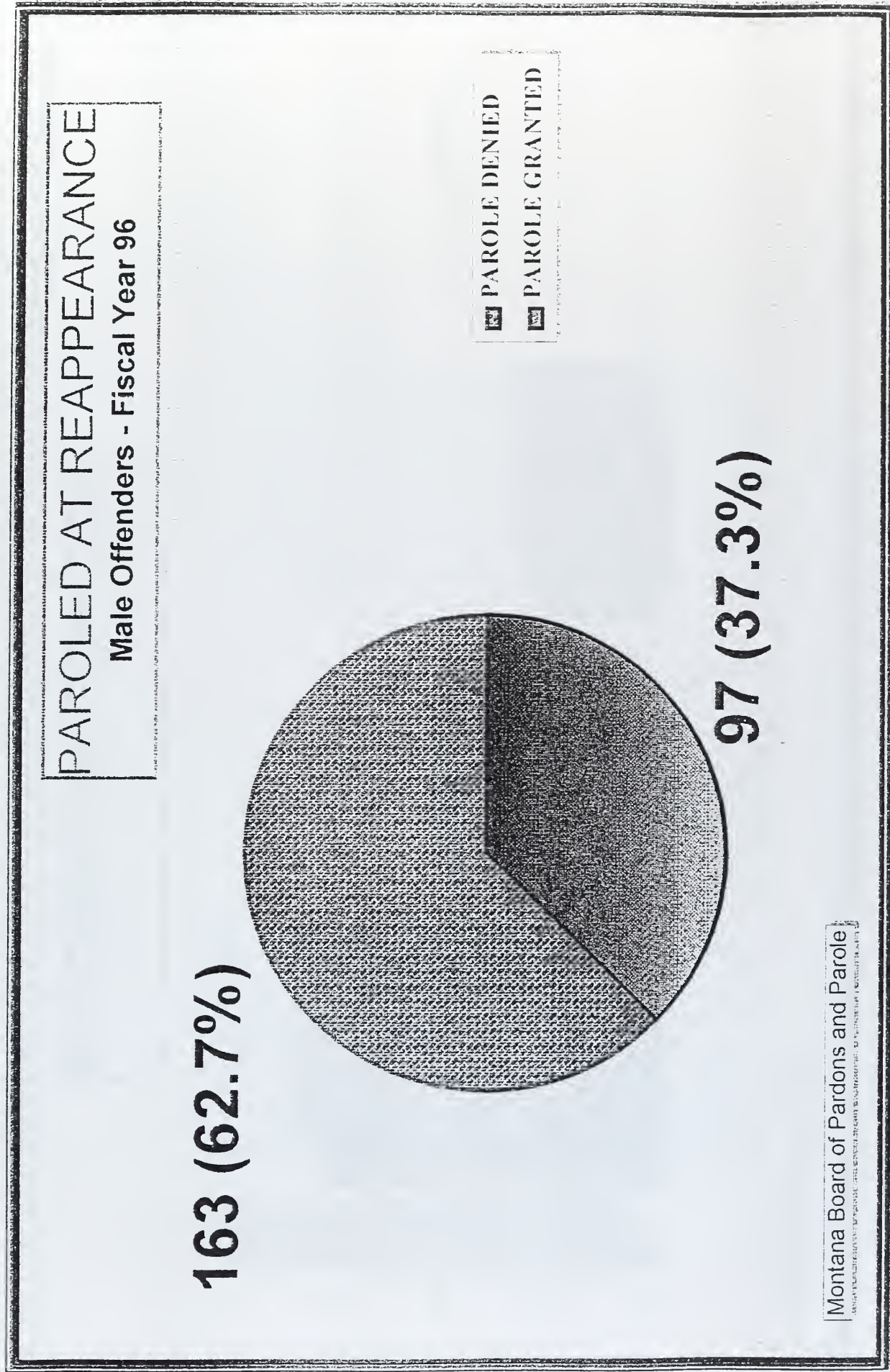
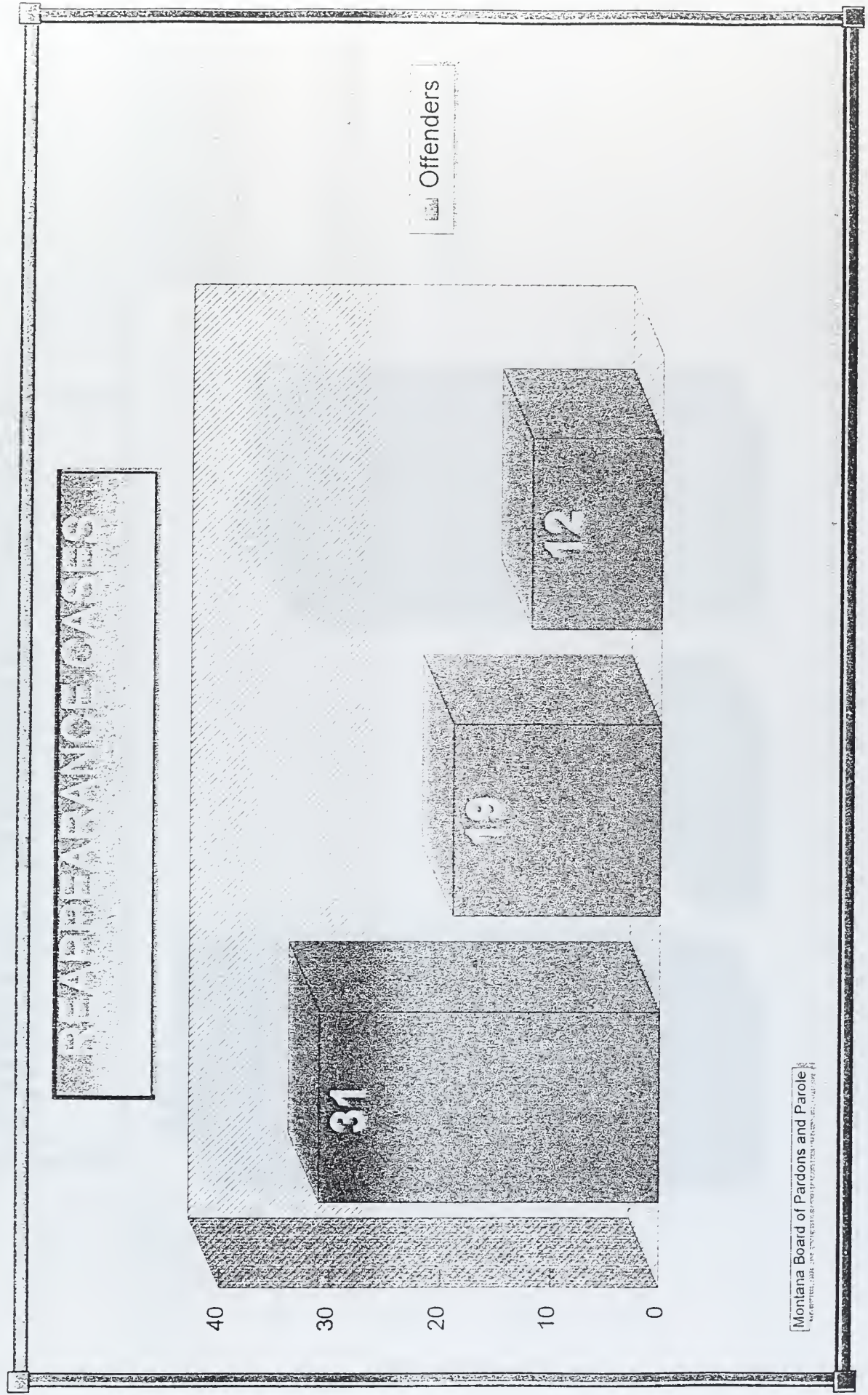
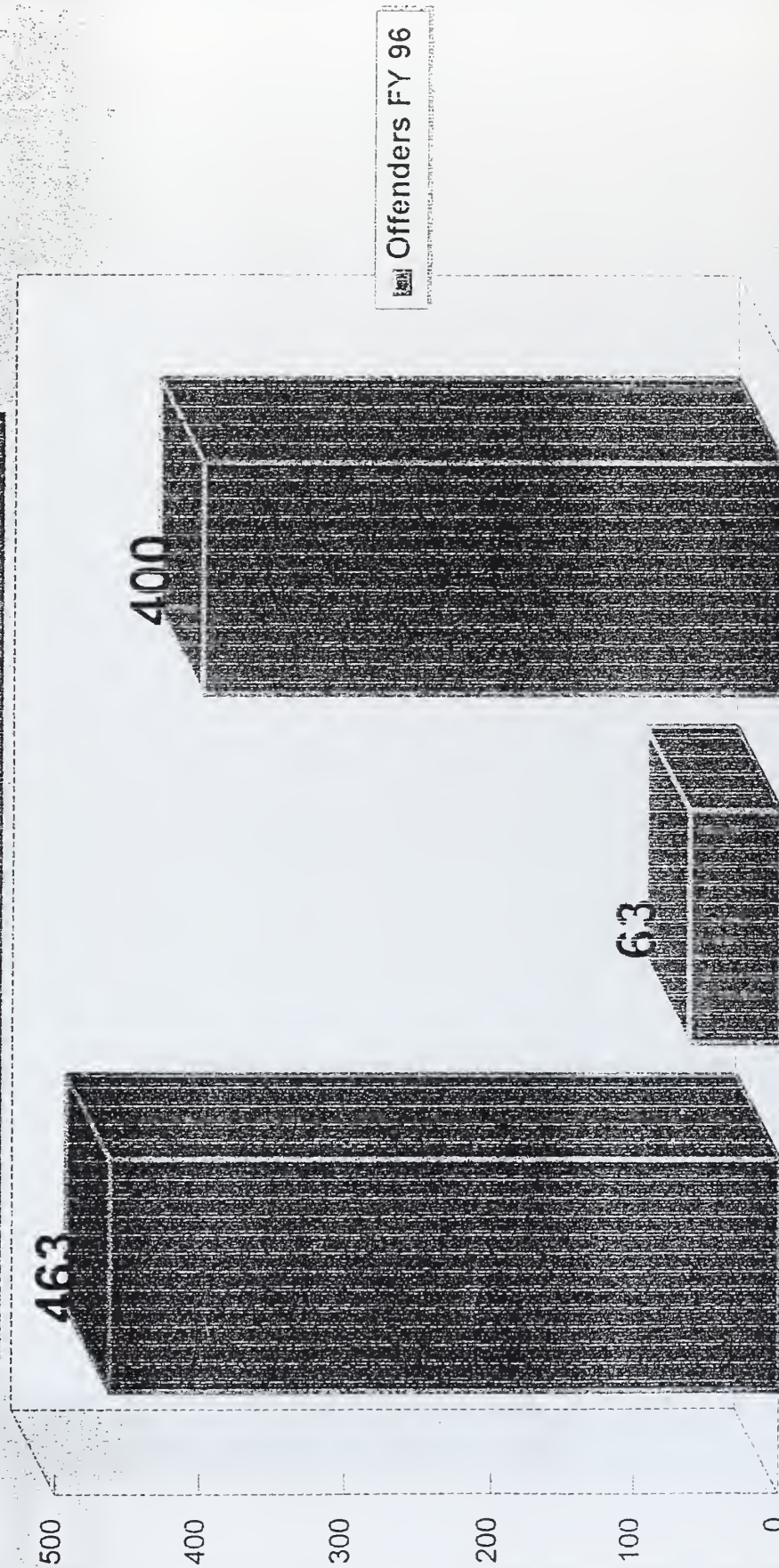


Figure 13



ANNUAL REVIEW CASES

Male Offenders



Montana Board of Pardons and Parole

Figure 14

PAROLED AT ANNUAL REVIEW

Female Offenders - FY 96

Source: Montana Board of Pardons and Parole, 1996

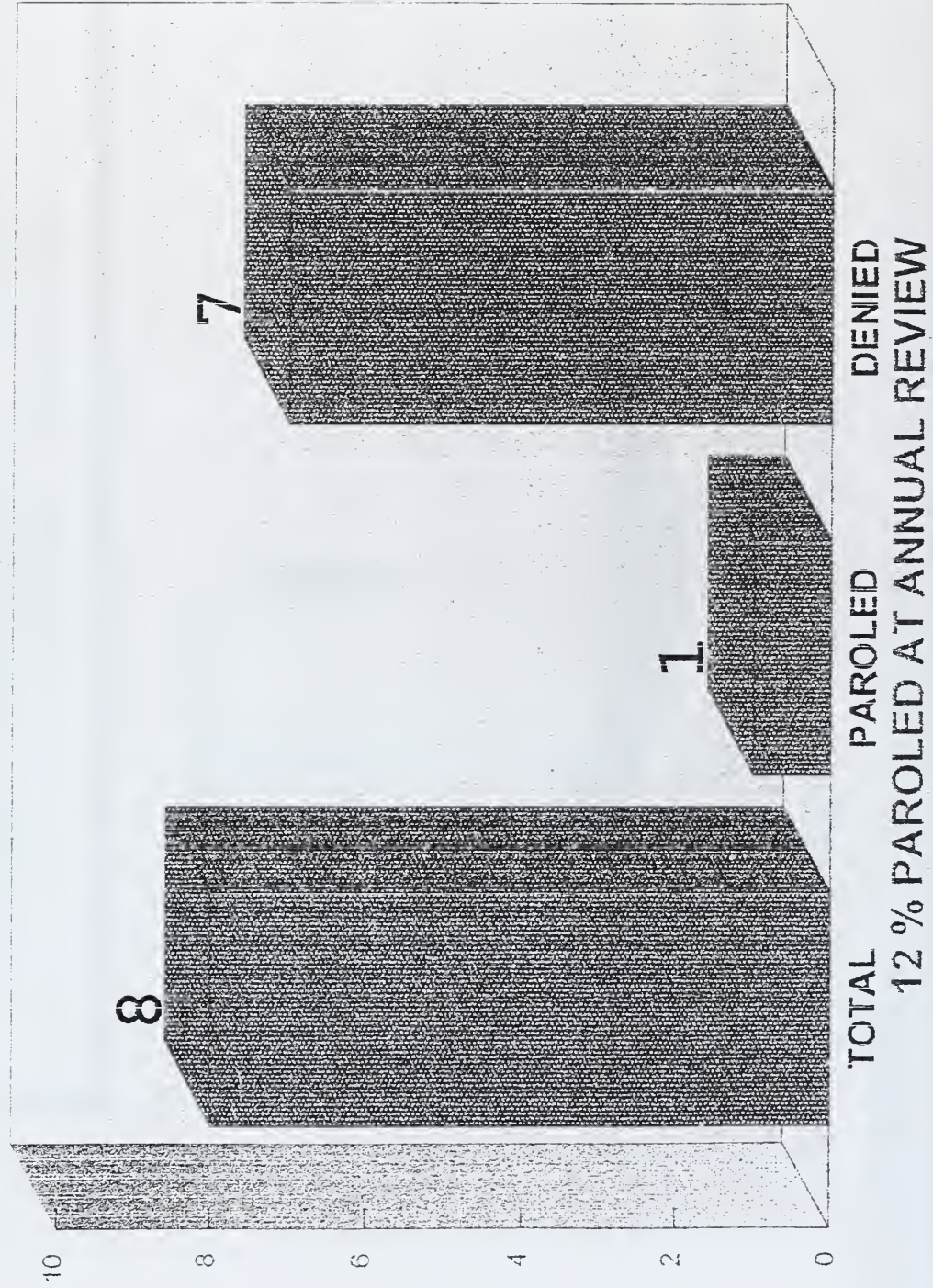


Figure 15

Figure 16

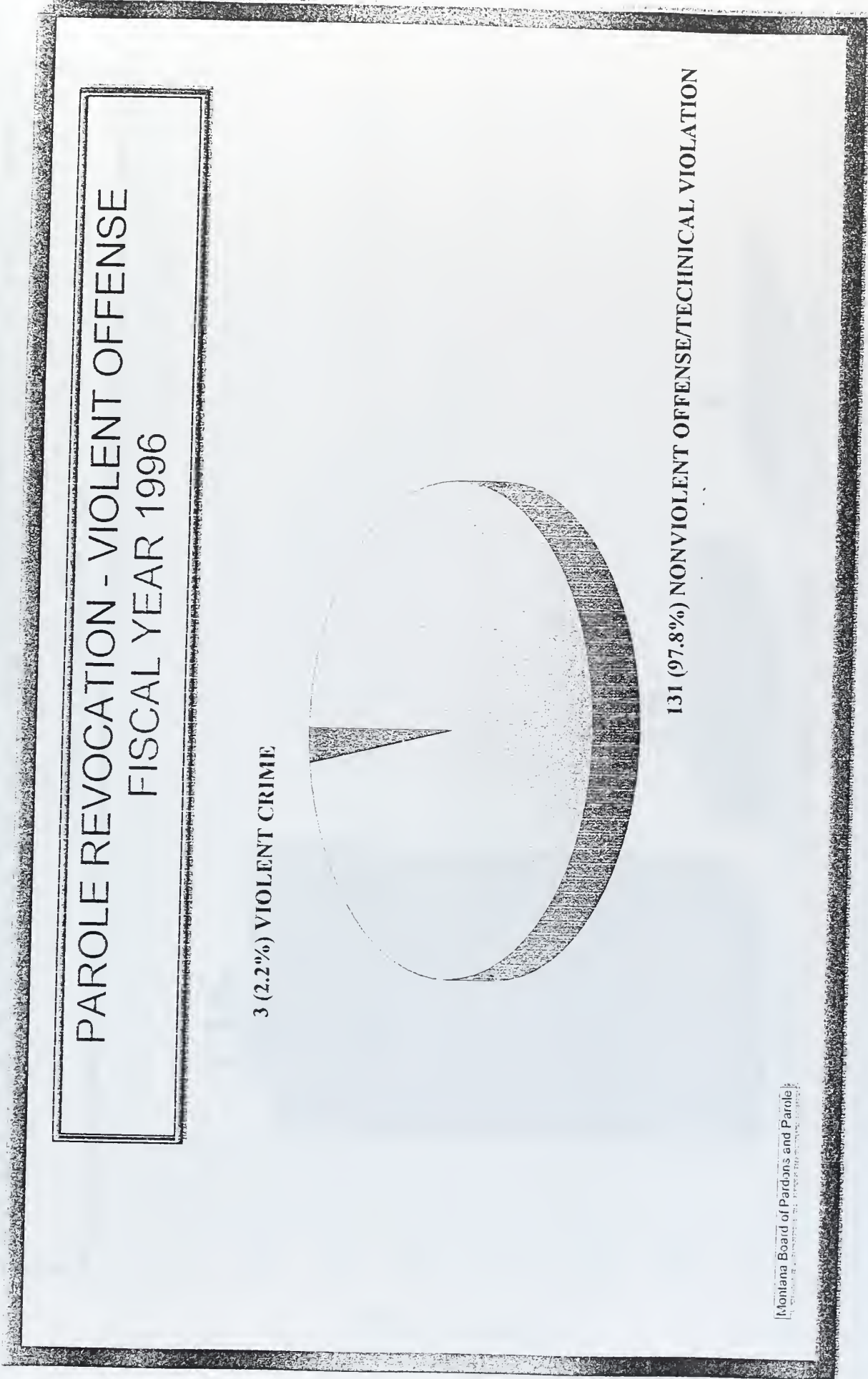
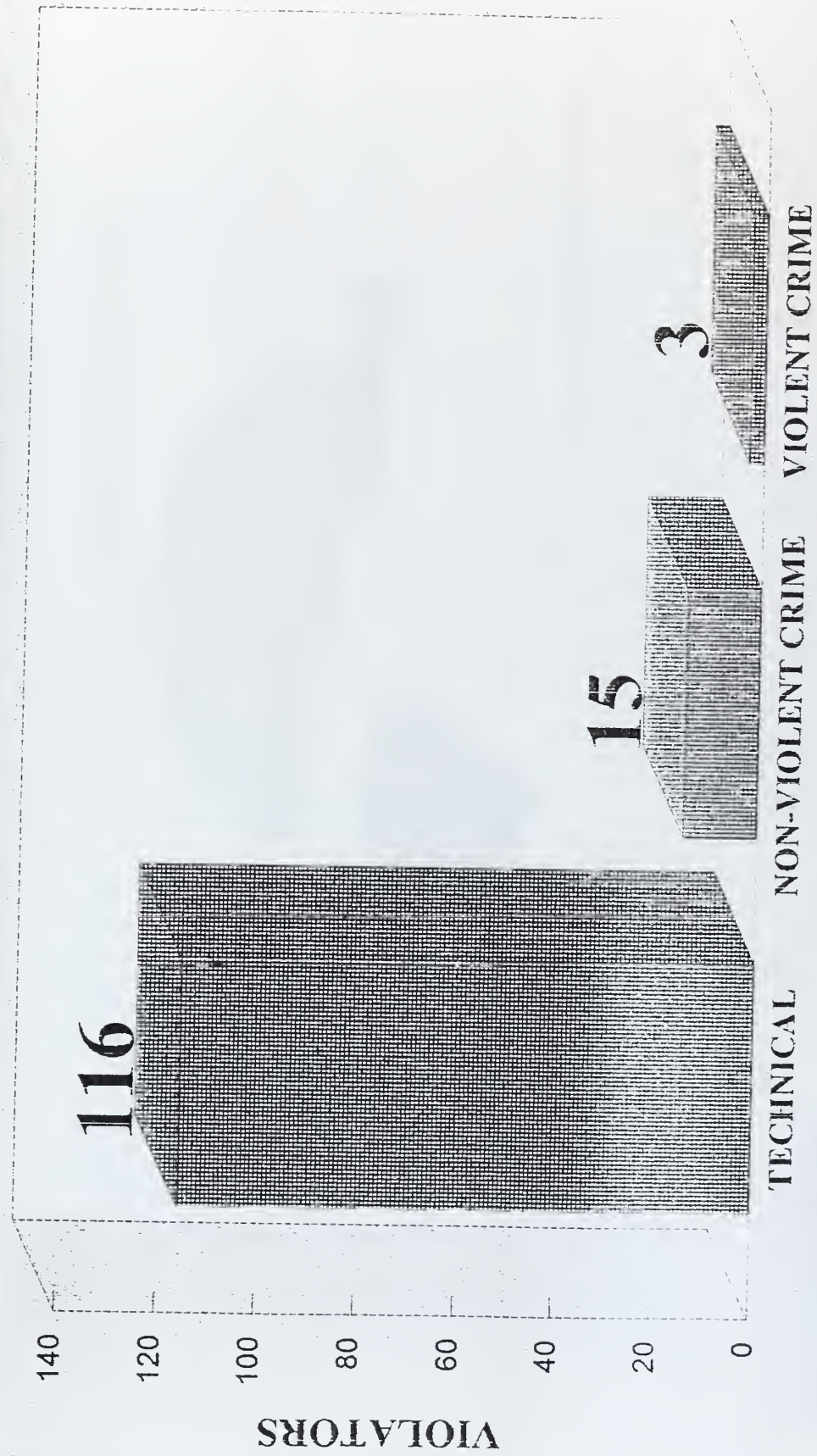


Figure 17

PAROLE VIOLATORS RETURNED TO CUSTODY

Violation Type FY 96



PAROLE VIOLATORS WITH ALTERNATIVE PLACEMENT

FY 96

25 (46.3%) PRE-RELEASE

2 (3.7%) MSP-County Jail

1 (1.9%) RE-PAROLE

10 (18.5%) ISP

16 (29.6%) REINSTATEMENT

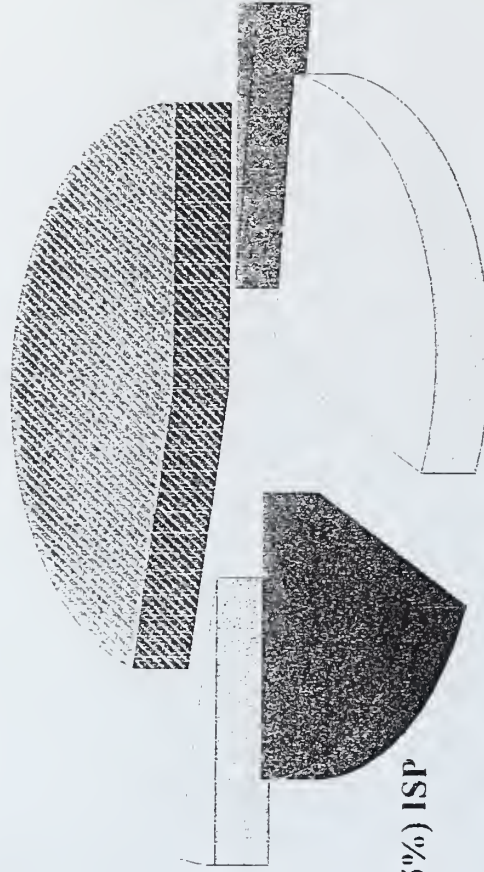


Figure 18

FIGURE 19

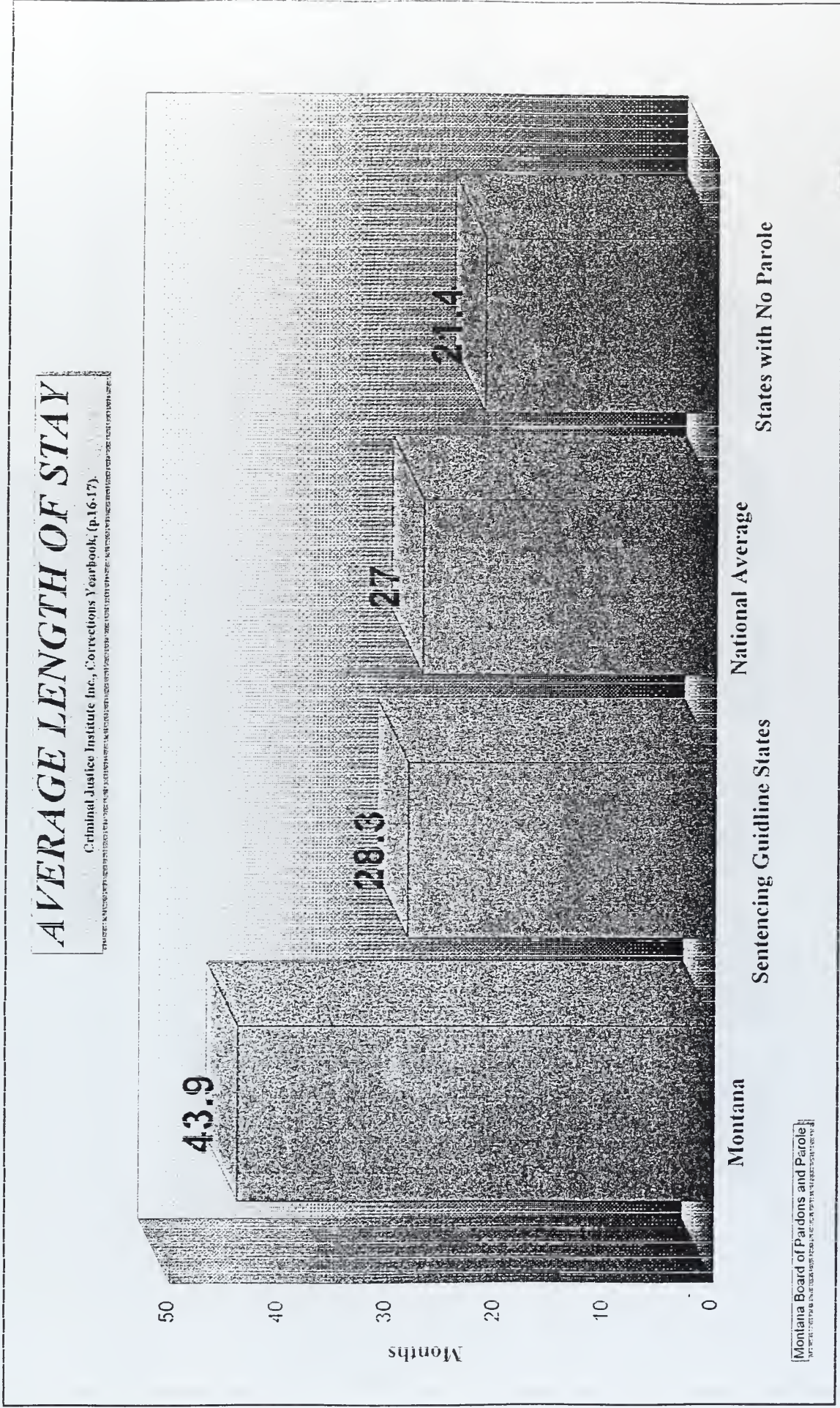


FIGURE 20

